



HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

45th PARLIAMENT, 1st SESSION

Standing Committee on Citizenship and Immigration

EVIDENCE

NUMBER 011

Thursday, November 6, 2025

Chair: Julie Dzerowicz



Standing Committee on Citizenship and Immigration

Thursday, November 6, 2025

• (1530)

[English]

The Chair (Julie Dzerowicz (Davenport, Lib.)): I call this meeting to order.

Welcome to meeting number 11 of the House of Commons Standing Committee on Citizenship and Immigration.

I usually make a few general comments. Soon I will have memo-rized all of these, and then you can give me a test.

I'm going to begin with a few comments for the benefit of the witnesses and the members.

I have two cards, a yellow one and a red one. Yellow means that you have one minute left. Red means that your time is up.

Kindly wait until I recognize you by name before speaking. I will remind everyone to please not speak over each other, as it will be hard for our translators to translate, and it makes their job difficult.

Of course, please ensure that all your comments are addressed through the chair.

Members, as you all know, kindly raise your hand if you wish to speak. The clerk and I will manage the speaking order as best we can.

Thank you in advance for your co-operation.

Pursuant to Standing Order 108(2) and the motion adopted by the committee on October 23, the committee is resuming its study of the subject matter of Bill C-12, an act respecting certain measures relating to the security of Canada's borders and the integrity of the Canadian immigration system and respecting other related security measures.

This is our second meeting out of four to discuss the immigration sections of Bill C-12.

I would now like to warmly welcome our witnesses for the first panel.

On behalf of the Immigration and Refugee Board, we have Manon Brassard, chairperson; Roger Ermuth, executive director; and Roula Eatrides, deputy chairperson, refugee protection division.

Welcome to all of you.

Ms. Brassard, I now invite you to make an opening statement of up to five minutes, after which we will proceed to rounds of questions.

[Translation]

Manon Brassard (Chairperson, Immigration and Refugee Board): Madam Chair, I thank the committee for giving us the opportunity to speak to you about the Immigration and Refugee Board.

[English]

As you know, the IRB is a quasi-judicial tribunal. We report to Parliament through the Minister of Immigration, Refugees and Citizenship. Our mandate is to resolve immigration and refugee matters efficiently, fairly and in accordance with the law.

As an administrative tribunal, we must use our expertise to hear and decide a high volume of cases. The IRB issued 102,000 decisions last year. Of those, 78,000 were decisions from the refugee protection division. That's a 42% productivity increase from the year before, with a funded capacity of 60,000 cases.

[Translation]

To resolve so many cases, we harmonized, simplified and standardized our processes across the country. We now manage our inventory nationally. We used technology and automated our processes wherever possible, and we manage our inventory in a way that maximizes time for hearings.

[English]

High volume is nothing if our hearings are not conducted in a way that upholds natural justice and procedural fairness. Our reasons for a decision must meet the test of the Supreme Court in *Vavilov*. They must offer sufficient justification, be transparent and be easily understandable for the reviewing courts and, most importantly, for the claimants themselves. That's normal. We hear cases that involve charter-protected rights—life, liberty and security—and that can't be reduced to a checklist exercise.

[Translation]

We know our decisions pass the test because they aren't often overturned. Last year, the Federal Court overturned 1% of the refugee protection division and the refugee appeal division decisions.

[English]

I'd like to turn to our challenges.

You all know about the RPD inventory. It stands now at around 290,000 claims. A third of those are incomplete files. How did we arrive at that number?

The answer is fairly simple. There were two years of historically high levels of intake. In 2022-23, there were 154,000 claims in one year. In 2024-25, the year we just finished, there were 176,000 claims. We were funded for 60,000 claims; we finalized 78,000 claims.

We can contrast that with the previous 10 years when intake was, on average, 29,000 or 30,000 claims, and the board finalized on average 26,000 claims. If you look at the few years towards the end of that 10-year period, the highest was 75,000 for intake and 48,000 for finalization.

At the end of 2022, before the numbers I mentioned earlier, the caseload was 54,000. At current capacity—around 80,000, with the improvement we've made—we could do the 54,000 claims in eight months, just to give you a sense of capacity, if it hadn't been for a huge intake.

• (1535)

[Translation]

Because the current asylum claims inventory is relatively young, mostly less than two years old, a case decided today has waited about 22 months for a decision. That includes the six to eight months it takes for CBSA to do security screening.

[English]

For a case being sent to us today, given our ability to finalize about 80,000 a year and with the capacity we have, it would take about 44 months or 45 months to issue a decision.

The IRB-funded capacity is now 70,000 decisions, but, like I mentioned, with the improvements we made, this year we think we can reach at least 80,000 decisions. The IRB has invested to increase its productivity. Some of our projects have already delivered real results—that's why we do better—and others are about to become reality. We've seen real, concrete progress, but there's more to do. That's why I'm confident that the board can continue to successfully meet the challenges ahead and play its part in a much larger Canada asylum system.

With this, Madam Chair, I turn the floor back over to you, and I look forward to the exchange today.

The Chair: You are a professional, Ms. Brassard. That was three seconds before your time, so an excellent job, and thank you for the wonderful introductions.

Our first round is a round of six-minute questions. I'm going to ask the questioner to please be succinct with your questions, allow for the answers, but kindly, witnesses, please make sure that you give your answers as quickly as possible too.

We start with Mr. Redekopp for six minutes.

Brad Redekopp (Saskatoon West, CPC): Thank you, Madam Chair.

Thank you, witnesses, for being here today.

You spoke about the capacity and the way that you tried to go after the increase in your capacity to deal with that high-volume inventory of asylum claims, which was caused by a lot of things—inefficiency of the government and other things. However, I want to talk a little about another aspect, which would be reducing the number of claims we have, the volume that's there. My first question is about the safe third country agreement. Do you agree with the position of the Government of Canada—and it's been stated here multiple times—that the United States is a safe third country?

Manon Brassard: That's a policy decision. I have no comment on that.

Brad Redekopp: I think it's been established by the government that it is.

Would you agree that Great Britain has a functioning asylum system and, maybe, a charter-level protection comparable to a country like the United States?

Manon Brassard: It's certainly a democratic country that has institutions that are fairly solid.

Brad Redekopp: How many IRB resources, such as hearing and staff hours, would be consumed annually by claims originating from Great Britain, for example?

Manon Brassard: Not a whole lot. We have an inventory of 17 cases.

Brad Redekopp: Okay, and what about people who arrive from Great Britain, transiting from Great Britain?

Manon Brassard: We have stats about the country of alleged persecution, not necessarily a country of transit.

Brad Redekopp: You have no idea when somebody... To use Great Britain as an example, if somebody arrives from there, you do not know whether that's where they arrived from; you just track their country of origin.

Manon Brassard: We will know when we look at the case itself, but in data that we collect to do charts, we don't collect the route that they took to come here, whether they went through one, two or three countries before they arrived here. However, we will consider it when listening to the claim and making a decision on the well-foundedness of the claim.

Brad Redekopp: To your knowledge, would there have been a decent number of claimants who would have transited through Great Britain, as an example?

• (1540)

Manon Brassard: I can come back and try.... We don't have statistics on that. It's very difficult to offer a number.

[Translation]

Mario Simard (Jonquière, BQ): Madam Chair, there's no interpretation.

[English]

The Chair: I was hearing it properly, but perhaps we'll check with the translators.

[Translation]

Mario Simard: The interpretation is working now, Madam Chair.

[English]

The Chair: Mr. Redekopp, please continue.

Brad Redekopp: I guess what I'm getting at is this: Would there be any reduction in casework from your side if a claimant, who transited from a country like Great Britain, was automatically not allowed to proceed with a claim, having come from Great Britain, a safe country?

Manon Brassard: I think transit is not necessarily a sign of a yes-or-no decision in and of itself, so—

Brad Redekopp: Can I stop you there?

Manon Brassard: Yes.

Brad Redekopp: Isn't that how the U.S. safe third country agreement works?

Manon Brassard: The safe third and a list are two different things. We have an agreement with the States—we the government—and we send people back.

Brad Redekopp: Should we have an agreement with Great Britain, for example?

Manon Brassard: That's not for me to decide.

Brad Redekopp: Would it change the workload at the IRB if there were an agreement like that?

Manon Brassard: Well, it would.... Any agreement where the government sends people back to a country would probably have an impact on the intake.

Brad Redekopp: Okay.

On another angle, there have been cases of deliberate misrepresentation to an officer and, of course, that undermines the integrity of the system. We're not talking about mistakes and errors. It's deliberate lying for fraudulent means. What proportion of immigration appeal division appeals involve findings of deliberate misrepresentation?

Manon Brassard: We look at it from the point of view of credibility. There could be people misrepresenting their country of nationality, misrepresenting the nature of their claim or having documents that are proven to be, in effect—

Brad Redekopp: Do you have a number? Do you have a proportion of people who misrepresent in their cases? Do you know that?

Manon Brassard: We have manifestly unfounded claims findings that we can have and it's about—

Brad Redekopp: Is that a statistic?

Manon Brassard: That's a number, and I'm not—

Brad Redekopp: Is that something that's published or is it something that—

Manon Brassard: I have the stats. I just don't want to rely on my memory. Let me—

Brad Redekopp: You can table that with the committee. That would be fine.

Manon Brassard: Okay.

Brad Redekopp: What you're saying is that if somebody misrepresents themselves, that doesn't automatically mean that you will deny the appeal. You'll still continue the process even if they lie to you.

Manon Brassard: That's the whole thing about having a hearing. Someone asks for refugee status and they have to prove their claim. They have to prove who they are. They have to prove they have a well-founded fear of persecution for one of the grounds. They have to have evidence to support it and they have to be able to show a lack of protection.

Now, sometimes we find that people have fraudulent documents. We say no to those.

Brad Redekopp: Okay. That's good.

I have a limited time. I have one more question.

Sometimes people file an asylum claim, leave the country to go back home or to a different country and are not around for their hearing. This happens. Is that correct?

Manon Brassard: We decide then to make an abandonment hearing and close the file.

Brad Redekopp: Are those claims automatically abandoned?

Manon Brassard: We close the file.

Brad Redekopp: If they leave the country, their claim is—

Manon Brassard: Well, they have a chance to come. If they don't come, if they don't show up, the case is declared abandoned.

Brad Redekopp: Does that happen all the time or are there conditions around that?

Manon Brassard: There are no conditions. I mean, if they don't show up for their hearing and they've been called to come to their hearing, they have—

Brad Redekopp: What if they at one point returned to their country and now they're back for the hearing? Does that automatically cause you to abandon the claim as well?

Manon Brassard: If they return to their country, the question that would pose is the legitimacy of the claim. If they go back to their country of persecution, that would put into question the veracity and—

Brad Redekopp: Would that automatically be disqualified—

The Chair: Thank you so much. You're way past your time, Mr. Redekopp.

We will move on for six minutes to Mr. Fragiskatos.

Peter Fragiskatos (London Centre, Lib.): Thank you, Madam Chair.

Thank you to the officials for being here.

I understand the wider context you've set out. I think it's very important, and I'm going to get you to speak about it again, Ms. Brassard. You gave a number of statistics at the outset and compared them to 10 years ago. Obviously, there are more claims that have been put forward on an annual basis. How does this compare with other countries, for example?

I think it's important to put the matter into its proper context, because looked at in isolation, we might think that Canada is dealing with this challenge on its own, but there's a global situation that's given rise to all of this. Isn't that true?

• (1545)

Manon Brassard: What I can say is what I hear from the UNHCR; I don't know if they've been invited to your committee. The number of people on the move due to war-torn situations, civil wars and other difficult situations is on the rise. If people are on the move, they're going to seek asylum or protection elsewhere.

Canada is not the only country with larger numbers of refugee claimants over time. You're absolutely right. It is not a situation unique to Canada. It is broader than that. Now, I can't offer numbers by way of the size of the growth and the rapidity of the growth compared to what we saw, but there are large case inventories in other countries, definitely.

Peter Fragiskatos: What is the number of asylum claims that were made in 2023 or 2024?

Manon Brassard: There were 154,000, and then 176,000 claims.

Peter Fragiskatos: I'm looking at a page on the website of the European Union. Germany is the country that I've pulled up. It's a comparable country in many respects. For first-time applicants in 2023, there were 329,000-plus people. For 2024, it was almost 230,000 people. In the U.K., there are close to 100,000 applications for asylum.

This is why I say the global context is very significant to our understanding.

Manon Brassard: Absolutely.

Canada is not alone. The point I was trying to make was the extremely fast increase from 75,000, which I believe was the last year before we got to 150,000 and then to 266,000.

The shock to the system at the IRB was this large increase that got us to historical levels. I arrived at that time. I was not expecting

such large numbers. It's the push and the increase compared to the capacity of the system.

That was by way of trying to explain the situation of the case law. It's not to say that Canada was alone. On the contrary, a lot of countries are facing that question.

Peter Fragiskatos: I want to ask you about what's being done to get through the claims as expeditiously as possible while ensuring that basic standards, rule of law and basic human rights standards are upheld.

What is the IRB doing in that respect?

Manon Brassard: We're a tribunal and therefore we have board members. We train them. A number of them are lawyers by training already, but not all of them. The initial training is anywhere from six to eight weeks, depending on where they start from. There is one year when they're coached. They have the assistance of legal services in issuing reasons, so their ongoing training continues.

We also make sure that every member, new or experienced, has legal updates. As the Federal Court continues to issue decisions, it is important that we keep up to speed with this.

Our hearings are conducted so that we have an interpreter. They are represented by counsel. When credibility is an issue, it's always put to them that reasons follow Vavilov. They need to be understandable and they need to be justified. We follow the basics that are required by the courts.

Peter Fragiskatos: I just have a minute left. I am going to ask you about discussions you have with relevant tribunals in other comparable countries. I mentioned Germany and the U.K. before. You can list other countries if you wish.

Their systems are also overwhelmed with many claims. Do you talk about methods and approaches to get through things as efficiently and effectively as possibly?

Manon Brassard: There is an association of immigration judges, of which I am a member. Our staff collaborate and exchange views with a number of countries. We're often regarded as doing better and having things to offer to other tribunals by way of how we process things and our ability in using some technology.

Yes, there is some collaboration and exchange of ideas, but you have to understand that we're not necessarily starting from the same legal framework. Therefore we learn from each other's experiences, but it's not necessarily easily transferable from one country to the next.

• (1550)

Peter Fragiskatos: Thank you very much. I'm almost out of time, but—

The Chair: You are out of time, Mr. Fragiskatos. I'm very sorry.

Thank you, Ms. Brassard.

[*Translation*]

Mr. Simard, you have the floor for six minutes.

Mario Simard: Thank you, Madam Chair.

Ms. Brassard, thank you for being with us.

I would like to pick up on what my colleague, Mr. Fragiskatos, was talking about.

In 2022-23, if memory serves, I helped a Salvadoran family settle in Saguenay—Lac-Saint-Jean. Unfortunately for me, the media picked up the story, and it snowballed from there. Countless asylum seekers came to my office asking for help.

I shared that because I truly believe we hit record numbers in 2022-23 and 2024-25. You actually talked about that in your opening remarks.

Part of the reason for that is probably the international context. That said, I'm sure Mr. Trudeau's statements had something to do with it. When a prime minister says his country will welcome people and that immigrants are welcome, that's warm and fuzzy and generous, but the fact is that a lot of people get their information from social media, so I can understand why that would have a snowball effect.

I say this because I want to understand the growth curve for asylum claims.

Do you have statistics to share with the committee on that? You said that 2022-23 and 2024-25 were record years, but I get the impression that there was an upward trend in the number of asylum seekers coming to Canada before that.

I don't know if you can send the committee information about that. I'd like to see at what point that growth curve started going up disproportionately.

Manon Brassard: Actually, we saw significant increases in 2023-24 and 2024-25. In 2022-23, it was still relatively stable.

Mario Simard: I've been following the Roxham Road saga. Perhaps you have, too. Over a 10-year period, there must have been a point when the number of asylum seekers increased significantly. Quebec says it took in a disproportionate number of asylum seekers.

Manon Brassard: Numbers started increasing rapidly in 2021-22, when 32,000 asylum claims were referred.

In 2022-23, that number jumped to 79,000. In 2023-24, it went up to 156,000, and in 2024-25, it increased to 173,000.

We'll send you a table illustrating those numbers.

Mario Simard: Thank you.

Have you broken it down by province?

Manon Brassard: I don't have that information here at the moment.

However, I can tell you where the asylum seekers are now, because we have their addresses. Nearly 37% of them have an address in Quebec.

Mario Simard: You're saying that 37% of asylum seekers currently have an address in Quebec.

Is that right?

Manon Brassard: Yes, but I should emphasize that, if a change of address has not been made, our figures will not be accurate.

In addition, 46% of asylum seekers are currently in Ontario, 12% are in the western provinces, and 1% are in the maritime provinces.

Nearly 4% of asylum seekers have not yet provided us with an address.

Mario Simard: According to these statistics, the distribution of asylum seekers across the country is not necessarily consistent with demographic weight.

Would you agree with me on that?

Quebec has 37% of the asylum seekers, but it has 20% of Canada's population.

Manon Brassard: I agree that it's 37%.

Mario Simard: And 37% is more than 20%.

Manon Brassard: Yes, it is.

Mario Simard: So we agree on that. We're not going to disagree on the math.

Do you have any information about the pressure that an asylum seeker may put on public services?

• (1555)

Manon Brassard: I would suggest that you ask IRCC that question.

Mario Simard: That's a very good suggestion.

Would you please tell us more about processing efficiency and speed?

As you know, many MPs' offices have become points of contact for IRCC because IRCC's response time can be quite long, unfortunately.

The Chair: You have one minute left, Mr. Simard.

Mario Simard: Thank you, Madam Chair.

Ms. Brassard, as I was saying, IRCC's response time is quite long. Many of the cases are asylum claims.

I agree that you have a specific process for handling applications, but there are horror stories. Consider someone who's been here for more than five years. They've integrated well and they've built a life. Unfortunately, because of the process they went through as asylum seekers, we know that these people will inevitably get rejected.

I would like to know how long asylum seekers have been settling here. Do you have any statistics on that?

Manon Brassard: That's another question for IRCC.

The figures we have are the ones I already gave you.

Anyone who wants to know the status of an asylum seeker's file can consult the "My Account" portal, which will be gradually made accessible to everyone.

For the time being, the portal can be accessed by lawyers, so they are able to find out the status of a particular file. The next step will be to make it accessible to asylum seekers, whether or not they're represented by a lawyer. At that point, everyone will have access.

The Chair: Thank you, Ms. Brassard and Mr. Simard.

[*English*]

Our second round is five minutes.

We will go back to Mr. Redekopp, please.

Brad Redekopp: Thank you, Madam Chair.

Madam Brassard, you said at the beginning, and I want to make sure my numbers are right, that right now a new case referred to you will take 44 months to get through the system and that there are about 290,000 cases in your system. We've never seen numbers like this before.

I have two questions. First, is that correct, and second, does that keep you up at night?

Manon Brassard: It's correct. A third of the 290,000—so 103,000—are incomplete cases in the sense that we're missing documents in the file to be able to process them. That is number one.

Yes, 44 months is something that I am concerned with. That's why we work so hard to reduce our times, to have My Case and to try to give training and videos to claimants so that they know how to proceed and facilitate their case. We do everything we can to shorten that time.

Brad Redekopp: Thank you.

In the levels plan that was released yesterday, there were 115,000 additional spots for protected persons in Canada. Is it your understanding that they will go to asylum seekers? Are you familiar with that? Have you talked to the department about that?

Manon Brassard: I have not been talking to the department about that. My understanding, although this has to be checked with the IRCC, is that it is for those who are found to be persons in need of protection. Those are not the people with us but the people who got the positive decision from us.

Brad Redekopp: Okay.

I want to go back to what we were talking about before, which is abandoned claims.

Manon Brassard: Yes.

Brad Redekopp: I believe you told me that if somebody is not in the country when their hearing happens, that's essentially an automatic ending of their file. Their file is closed.

Manon Brassard: There are many reasons for a claim to be abandoned. What we primarily look at is this: We're calling them for a hearing. They're not here. We're going to call them for a special hearing to explain why they weren't here. Unless they have a good reason, their claim will be declared abandoned.

Brad Redekopp: I'll go back to the example of somebody who actually did leave the country to go back to their home country. They're now back in Canada. They are available for their hearing. Does that automatically disqualify them as well?

Manon Brassard: Well, I would expect the minister representative to say that this person re-availed themselves of the protection of their country and challenge the claim, at the very least.

Brad Redekopp: So they would likely have their claim abandoned. Is that something that needs to be strengthened in law?

Manon Brassard: I'm not sure I follow, exactly.

Maybe my colleague can help.

• (1600)

Roula Eatrvides (Deputy Chairperson, Refugee Protection Division, Immigration and Refugee Board): I think the issue is that if they left the country and tried to come back, they'd be ineligible because they'd previously made a claim in Canada.

Manon Brassard: Right. It's less a question of abandoning it than of being ineligible.

Brad Redekopp: I see.

When the minister was here, she talked about using the mass cancellation authority for fraudulent purposes. One of the reasons I believe that would happen is if a whole bunch of people had the exact same reason for claiming asylum, which is an indication of gaming the system, of fraudulence. Do you have any numbers of claims where you've seen the exact same pattern of descriptions and it ends up being a fraudulent situation?

Manon Brassard: We don't have numbers per se. What I can tell you, though, about similar basis of claim forms, BOCs, is that it's often more complex than it appears. If the minister's representative has a number of cases and sees that the BOCs are similar, if they tell us, we will make sure that, in the hearings, the claimant is exposed to that and has to provide a valid reason.

Brad Redekopp: I'm sorry. I have limited time.

One idea that I want to suggest is this. Would it be better if the claimant actually had to make their claim when they arrive? My understanding is that they don't necessarily have to. Further to that, what if there were a video record of that claim that they made when they arrived? Would that help you?

Manon Brassard: There is a presumption that, if they delay claiming, there's something questionable about their claim, and maybe the fear is not so real. However, it's a rebuttable presumption because the time that it takes to claim refugee status starts when the claim materializes. Therefore, if they came here as a visitor or as a worker and did not fear persecution, they wouldn't have such a hearing or they wouldn't have such a recording.

What's relevant—and it's not me saying it; it's instruction from the Federal Court, really—is that we look at delays, and if the delay is explained, if there's a valid reason, then a delay in itself is not a sufficient reason to decline a claim.

Brad Redekopp: Does that happen often?

The Chair: Thank you so much, Mr. Redekopp.

Thank you so much, Ms. Brassard.

Next we go for five minutes to Mr. Zuberi.

Sameer Zuberi (Pierrefonds—Dollard, Lib.): Thank you, Madam Chair.

[*Translation*]

I'd like to thank the witnesses for being with us.

[*English*]

I want to pick up on a theme you were just elaborating about with respect to a change of country situation. In the IRB proceedings, are changes in country situation sometimes fundamental to the decision on the claim?

Manon Brassard: Yes. If someone claimed refugee status, by the time their claim is heard, if the country conditions are way better or way worse, then the board member will consider that and will put it to the claimant with fairness and natural justice, and they have a chance to respond. The member will make a decision on the basis of the entire evidence in front of them.

Sameer Zuberi: It makes sense that, as you said, basic fairness would require that any tribunal would consider fundamental change of circumstances in the country in question.

Manon Brassard: Absolutely.

Sameer Zuberi: The legislation, as it's currently written, says that claimants have one year, or in some cases 14 days, to apply to your tribunal for asylum.

After that, in order to not be removed from Canada, one has to apply to the pre-removal risk assessment procedure. I know that you're at the tribunal. You have a very different procedure. I'm also certain that you have an awareness of the PRRA system.

Can you compare and contrast the two in terms of the robustness and the access to procedural fairness, etc.?

Manon Brassard: I can speak more about the IRB than I can speak about the PRRA. At the IRB, the person is represented by counsel, if they want to be, with legal aid, and the counsel or the consultant has a very active role. There is natural justice, and they have the opportunity to make their case orally, particularly if there's an issue of credibility, through an interpreter or a designated representative, if need be. Those are the standards of the legislation.

The PRRA, as it is now, not as proposed in Bill C-12, was conceived as this. Once you've received a negative decision from the board, for instance, but you haven't been removed yet, and when a year has elapsed, if you're now maybe ready for removal, then you have a pre-removal risk assessment. You've had the benefit of an RPD decision and an RAD decision, and if they were both negative, maybe you would have a Federal Court decision. The PRRA then has to look at the considerations after all of that has been taken care of.

• (1605)

Sameer Zuberi: What I'm getting at also is that the PRRA is evaluated by one civil servant—documents submitted to them without any testimony other than those written documents. Is that correct?

Manon Brassard: I think the PRRA has the ability to have some hearings. However, I would direct questions about the PRRA to the IRCC. It's really the master of that process.

Sameer Zuberi: Certainly. I appreciate that.

Budget 2025 has \$66 million allocated for the IRB. How will that help with what you're doing into the future? Could you share a bit about that?

Manon Brassard: The budget proposes improving asylum case processing by renewing an investment of \$33 million for the next two fiscal years. We had sunset funding, funding that was temporary in nature that was scheduled to end March 31. Now it's been renewed for two years.

We're going to continue our efforts to improve the system that we started. We started with easy things to do, the things that could get quick results. We've also started on longer-term initiatives. If you're interested, I'd be happy to discuss them more. We're going to pursue that as fast as we can in order to get as many results as we can.

Sameer Zuberi: I appreciate all that you and your colleagues are doing to make sure that everybody has a fair and robust process that takes into full consideration the seriousness of the matter that you're dealing with.

The Chair: Thank you.

[*Translation*]

Mr. Simard, you have the floor for two and a half minutes.

Mario Simard: Thank you very much, Madam Chair.

I'd like to go back to what I was saying earlier, Ms. Brassard. We would appreciate it if you could send the committee information about the increase in the number of asylum seekers over the past 10 years.

Regarding the 14-day deadline, have you ever had any discussions with IRCC about implementing the bill's provisions on that? How will that work?

[English]

Manon Brassard: At this point in time, what I understand from the 14 days.... Right now, if someone stays for 15 days, they can claim. Now they won't be able to claim. That will draw from the IRB workload and send a part to the PRRA process. Some of that has to be defined in the regulations, which we have not seen. After that, it will be important to talk about what this means, about how many cases this means. It's clear to us that it reduces—

[Translation]

That means the number of cases we process will go down, but I don't know to what extent.

I don't know if that will reduce the number of cases referred to both organizations.

Mario Simard: The reason I ask is that I'm sure the date of entry will be uncertain in some cases. How will the authorities determine if the 14-day limit has been exceeded?

I think IRCC will have to give direction on that. There are also special cases, such as Haitian refugees.

Clearly, a number of factors make this operation quite complex. That is why harmonization with IRCC will be crucial to determining how this provision should be applied.

Is that happening now or will you be doing it later?

Manon Brassard: Discussions about implementation are happening. We are also looking at the technology-related aspects. The bill proposes having a single file from start to finish.

As for the arrival date, it really is up to IRCC to determine that.

• (1610)

The Chair: Thank you, Ms. Brassard.

[English]

We have gone over time.

Next we have Ms. Rempel Garner for five minutes.

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

In previous rounds of testimony here, you have said that one-third of the backlog you have is incomplete applications. Is that correct?

Manon Brassard: Yes.

Hon. Michelle Rempel Garner: How long do you sit on an incomplete application before abandoning it?

Manon Brassard: They're incomplete right now. Part of the 103,000 incomplete files are CBSA front-end security screening, FESS.

Hon. Michelle Rempel Garner: How long do you sit before you abandon a claim?

Manon Brassard: I can't abandon the claim when it's not the claimant's fault that the file is incomplete.

Hon. Michelle Rempel Garner: You would never abandon a claim—

Manon Brassard: The board won't abandon a claim if there's no FESS—

Hon. Michelle Rempel Garner: —on an incomplete application.

Manon Brassard: —if...because the claimant has done their part. We're waiting.

Hon. Michelle Rempel Garner: Are the claims that are incomplete all pending CBSA security, or are they incomplete for other reasons, as well?

Manon Brassard: They could be incomplete for other reasons.

Hon. Michelle Rempel Garner: How many are incomplete for other reasons?

Manon Brassard: The basis is the claim form is not complete but they have a delay, so part of the—

Hon. Michelle Rempel Garner: For ones that are not CBSA security-related, how many are incomplete right now in the backlog?

Manon Brassard: I have the reasons, but I don't have the exact numbers. I can—

Hon. Michelle Rempel Garner: Okay, in that case, would you table that with committee?

Manon Brassard: Sure.

Hon. Michelle Rempel Garner: In that situation, where it's not CBSA related, how long would you sit on an application before abandoning it?

Manon Brassard: We will let the claimants know that they're late. We give them a delay and we will activate—

Hon. Michelle Rempel Garner: How many have you cancelled and how many applications have you abandoned for incomplete claims in the last year?

Manon Brassard: Last year, in total, it was 11,000.

Hon. Michelle Rempel Garner: Is there a time period or a set standard for that at all?

Roula Eatrvides: It's around probably six months.

Hon. Michelle Rempel Garner: Is there no set service standard?

Manon Brassard: I'd like to, if I may—

Hon. Michelle Rempel Garner: There is something else I wanted to clarify.

In your testimony to my colleague, you talked about how if a claimant with a claim appeared at a Canadian point of entry, they would be ineligible. Is that correct?

Manon Brassard: I'm not sure I understand the beginning of your sentence.

Hon. Michelle Rempel Garner: What I took from your testimony was that if somebody had left the country with an eligible claim, they would be ineligible—you said if they presented themselves—

Manon Brassard: If they claim and they leave, when they come back and claim again, they're ineligible.

Hon. Michelle Rempel Garner: I wanted to get that on the record, because it wasn't clear from what you said to my colleague earlier. Just to be clear, if somebody makes a claim, leaves the country and comes back in, they are ineligible to continue their claim and that claim has been abandoned. Is that correct?

Manon Brassard: It's gone.

Hon. Michelle Rempel Garner: How many did you cancel last year, or in the last several years, due to that?

Manon Brassard: I have the total, which was 11,000. I don't have it disaggregated.

Hon. Michelle Rempel Garner: You said that 11,000 was just because of incomplete applications. Is that right?

Manon Brassard: Yes, but if they start and they leave and it's incomplete, we'll cancel it.

Hon. Michelle Rempel Garner: There's a bit of a lack of clarity there about how you're abandoning applications, but I think we might make some amendments to that effect to put some clarity there.

• (1615)

Roula Eatrides: If you give me two seconds, there are different things. There's abandonment when a claimant doesn't file their appropriate documents; if they don't fulfill their claim with all the information, we can abandon the claim.

There's a claim that's incomplete where front-end security is there, and then there's also the ability for the minister to revoke eligibility. That's different from an abandonment.

Hon. Michelle Rempel Garner: My understanding is that the entire time somebody has an incomplete claim—

The Chair: You have 30 seconds.

Hon. Michelle Rempel Garner: —let's say, not for security reasons, they would be eligible to get benefits like accommodations, health care and supplementary benefits. Would that be correct?

Manon Brassard: Yes, as long as they're claimants, but that's why we go through our system and we call them—

Hon. Michelle Rempel Garner: Do you think perhaps there would be a cost saving on benefits if there was a time limit for incomplete applications?

Manon Brassard: There are, right now, some timelines.

Hon. Michelle Rempel Garner: What are they? You just told me there weren't.

Manon Brassard: We wait six to eight months on average to get the security screening.

Hon. Michelle Rempel Garner: This seems a little like office space to me. I'll just leave it at that.

The Chair: Ms. Rempel Garner, please allow her to answer the question.

I just want to hear the answer, please.

Hon. Michelle Rempel Garner: I think I have enough of what I need to put some amendments on the record for this bill.

The Chair: Great.

You can complete your answer, please, Ms. Brassard.

Manon Brassard: There are sometimes six to eight months given, and we won't abandon until then. The claimants have, when they arrive, 45 days, and it's been prolonged to 90 days.

Six to eight months after we get the FESS, if the claim is not complete and there's no valid reason, we will proceed to abandonment.

The Chair: Thank you, Ms. Brassard.

Thank you, Ms. Rempel Garner.

Last for this round, we have Ms. Zahid for five minutes.

Salma Zahid (Scarborough Centre—Don Valley East, Lib.): Thank you, Chair.

Thanks to the witnesses.

Our government has invested more resources in the Immigration and Refugee Board, and you have been increasing your capacity to help cases, as you mentioned in your opening remarks, but the system is still overwhelmed, leading to significant wait times for people waiting to start their new lives here in Canada.

I have heard these stories in my constituency many times. They have left their loved ones.

Could you please share how the measures in Bill C-12 would help ensure more timely access to a fair hearing for asylum claimants?

Manon Brassard: Bill C-12 would impact the board in six ways...the grounds for ineligibility and forcing to people claim within a year, otherwise they go to the PRRA. We would see if more people claimed within the year, and that would change behaviour.

If the claims are completed sooner with a single online application, we hope that will be able to arrive at decisions faster, because there would less time spent waiting for complete files.

The minister would have a chance to do their due diligence. If they tell us sooner, we can intervene. It would be a step that we would not have to do, so that would shorten the process entirely.

There are ways. The goal of the legislation is to try to reduce some of the timelines.

Salma Zahid: Thank you.

One of the goals of Bill C-12 is to enhance the integrity of Canada's immigration system.

From the IRB's perspective, what additional tools or safeguards in the bill will help detect and prevent abuse while maintaining Canada's humanitarian commitments?

Manon Brassard: I think that's a question for the IRCC in how they present this.

To us, preventing abuse is making sure that we have the FESS on file and that we inform the minister when we detect something in the file that the minister has not detected. We inform them, and we ask them to appear before the IRB. We have mechanisms in place to continue to ensure the integrity of the system.

Salma Zahid: Will the information-sharing provision in this Bill C-12 be of assistance to you at the IRB? If that's the case, what will be the impact of that?

• (1620)

Manon Brassard: I think this information-sharing is more about the CBSA and the IRCC than the IRB.

Salma Zahid: So the information collected by the IRCC will not help the IRB.

Manon Brassard: There are things we need, and the rules of the board dictate what we require by way of a basic information form to start a claim.

We like to have the decision of the minister to intervene or not. Like travel visa documentation, those are things we already have or are available if the department gives them to us. It's already possible to get these under the current legislation.

Salma Zahid: Effective implementation will require coordination between the IRCC, the CBSA and the IRB.

What mechanisms are being put in place to ensure consistent information sharing to avoid duplication and to support the smooth rollout of the reforms envisioned in Bill C-12?

Manon Brassard: I think it's more about how we manage this, keeping in mind that the IRB is a tribunal and—

The Chair: You have one minute.

Manon Brassard: —and the CBSA and the IRCC are both parties in front of the tribunal. I always have to keep that in mind.

Salma Zahid: Budget 2025 included a significant focus on the future of immigration in Canada. It included the 2026-28 immigration levels plans.

Can you tell us why this measure was important in regard to the recognition of eligible protected persons in Canada as permanent residents?

Manon Brassard: The IRB is not involved in the levels discussion at all. The levels plan is purely IRCC.

As I said earlier, I believe the measure you're referring to is for people who have been granted protected status. That was after—

Salma Zahid: It was putting it into the PR board.

Manon Brassard: It has no impact on the IRB. It is for those people who have gone through the IRB and received a positive de-

cision. The IRCC potentially has a plan for these people to get permanent residence faster, but it does not involve the IRB.

The Chair: Thank you.

Since we have only about eight minutes left, I'm going to give three and half minutes to the Conservatives, three and a half minutes to the Liberals and then one minute to Monsieur Simard.

Mr. Menegakis, please go ahead for three and a half minutes.

Costas Menegakis (Aurora—Oak Ridges—Richmond Hill, CPC): Thank you, Chair.

Thank you for appearing before us once again.

I just want to wrap my head around something. Did you say it's a six- to eight-month wait for CBSA screenings, and you can't do anything during those six to eight months until you get information from the CBSA ?

Manon Brassard: First I want to say that the CBSA is working very diligently at this. I get the number of cases that they have.

What they're doing is a security screening. That allows us to know that the person is the person they are. It allows us to make sure that we can proceed with a degree of certainty around identity and security issues.

Costas Menegakis: In those six to eight months, we don't know if they are safe to be in the country, because we're waiting for a security screening. In those six to eight months, they're collecting all the benefits while they are here as asylum seekers. Is that correct?

Manon Brassard: They are asylum seekers and they are entitled to whatever benefits are connected to that.

Costas Menegakis: They are collecting all of that.

Then there's a process of 90-plus days before abandoning.

Manon Brassard: That's unless the claim is actually ready to proceed.

Costas Menegakis: Then there's the hearing process.

Manon Brassard: Yes.

Costas Menegakis: It sounds like these folks can be in the country almost a year without a proper screening. They're collecting benefits and waiting, and we don't know if they're safe to be in the country. They're collecting benefits and they're tied up in the system.

I disagree with my colleague opposite that we're on a par with Germany. Germany is a country that has double the population we have. It is in the heart of the European Union, surrounded by 28 other countries. This is Canada.

There are 290,000 people; let's just call it 300,000. That's an exorbitant number of people, and it takes very long to process them. When do you anticipate catching up?

• (1625)

Manon Brassard: We are now able to do 80,000 claims a year. We are aiming for more than that—

Costas Menegakis: But every year you're getting more.

Manon Brassard: Well, it depends on how many we're going to get every year. If the intake is actually reduced, we'll be able to catch up on the accumulated inventory.

Costas Menegakis: It seems to me like an endless process. There's no end to this thing.

Manon Brassard: It's a difficult situation and it's a new one, considering that we have accumulated that over the past two years.

Costas Menegakis: It's a situation that this government has created, quite frankly, because asylum seekers get to jump the queue. They get in front of all the other immigration streams. This is an easy way for them to get in.

How many self-abandon?

Manon Brassard: There were 4,000 withdrawals last year.

Costas Menegakis: Those 4,000 people came, took the benefits and stayed here—

Manon Brassard: I don't know how long they stayed. What I can tell you is that last year, 4,000 abandoned their claim.

Costas Menegakis: You made a point there. They do leave the country and they go back to their country and come back.

Shouldn't that be an automatic...? There's no meeting to be had there. They came here fleeing persecution. Why wouldn't they be immediately...? The ruling should be immediate, should it not?

Manon Brassard: They are ineligible when they come back.

Costas Menegakis: It's immediately, that minute.

Manon Brassard: Then they're not with us.

Costas Menegakis: Okay. Then the CBSA does the deportation order, or do they have the right to make that decision?

Manon Brassard: It belongs to them after that.

Costas Menegakis: Wow.

It's quite astonishing. How long does your average hearing—

The Chair: Thank you, Mr. Menegakis. That's your three and a half minutes.

Thank you, Madam Brassard.

We have Ms. Sodhi for three and a half minutes, please.

Amandeep Sodhi (Brampton Centre, Lib.): Thank you, Madam Chair.

Thank you to our witnesses.

I guess there are differences between the IRB process and the PRRA process. If passed, part 1 of Bill C-12, strengthening Canada's immigration system and borders act, would make asylum claimants who arrived in Canada irregularly and did not make a claim within 14 days ineligible to be referred to the IRB. They would still be eligible to apply to the IRCC for pre-removal risk assessment, also known as the PRRA.

Could you please explain how a pre-removal risk assessment conducted by the IRCC differs from a refugee protection determination made by an IRB decision-maker?

Manon Brassard: We provide a full hearing; they provide an interview.

Amandeep Sodhi: Okay, thank you for your answer.

In budget 2025, we're allocating around \$66 million. Are you able to give us a brief overview of what you'd like to do with that money or see be done?

Manon Brassard: That brings us to our current level of budget, so it is not more money than we have. It keeps us at the same level, because it continues sunset money that we would have otherwise lost in March 2026. It keeps us whole, if you want, and we're going to continue to do what we've been doing, which is finding improvements in our system and processes, automation of systems, automation of scheduling as much as we can, and finding more time for refugee hearings, so it will free up time for that. We will be more effective and efficient in the back office, which is the registry, and continue to streamline the overall management of the IRB.

Amandeep Sodhi: Do you personally believe that this investment will help the IRB process claims more efficiently?

Manon Brassard: We're working every day to that end.

Amandeep Sodhi: That's good, I'm glad.

Are you able to tell me the current size of the IRB's asylum claim backlog? How is the board working to reduce it?

Manon Brassard: We have 200,090 in the inventory right now and about a third are incomplete. We're using, I would say, almost aggressive case management strategies to make sure that we put as many cases as we can on the schedule. Right now, every day, we put over 300 cases a day to be heard and get decisions every single day.

That's how we continue to do the work, and we try to increase our capacity every day.

Amandeep Sodhi: Given the challenges that you may be facing, what recommendations would you offer to the government to further improve efficiency and client service at the IRB?

Manon Brassard: Front-end screening helps our colleagues improve faster. That would be good. I'd recommend effective decision case reviews and interventions, because the sooner we know, the better it is for us to activate.

Have a look at the legal aid system, because how it's organized triggers some behaviours. That is the wrong word, but that's the one that comes to mind because the lawyers' fee structure is such that it would drive decision-making from the legal aid lawyer as to when to do certain things.

• (1630)

The Chair: Madam Brassard, I'm very sorry; I have to cut you off, but if you would like to submit the rest of those recommendations, I think that would be very helpful to committee.

Manon Brassard: I was pretty much done.

[*Translation*]

The Chair: Mr. Simard, you have the floor for one minute.

Mario Simard: Thank you very much, Madam Chair.

Ms. Brassard, you may have already told us this, but I'd like to know what the approval rate is for, say, every 100 asylum claims.

Manon Brassard: It's 60%.

Mario Simard: Okay.

Manon Brassard: That rate is actually fairly consistent from one year to the next.

Mario Simard: Do you have information about the ports of entry?

Earlier, you said that there were 150,000 asylum claims in 2024-25.

Where did those people make their asylum claims?

Can IRCC provide that information?

Manon Brassard: Yes, the numbers are available.

We know how many asylum claims are made at an IRCC office. IRCC gets that information every day, but I think we have it as well.

Mario Simard: Does that information indicate a trend?

Manon Brassard: We can see that there are fluctuations. For example, we tend to get more asylum claims in July and August and fewer in some months.

When we look at statistics for a number of years, we can see trends.

Mario Simard: Can we do the same thing for the country of origin?

[*English*]

The Chair: Thank you, Ms. Brassard.

Thank you, Monsieur Simard.

[*Translation*]

Mario Simard: Thank you.

[*English*]

The Chair: That completes our testimony.

I want to mention something very quickly, for the record.

Asylum claimants do not have access to all of the Canadian benefits in Canadian society. They only have access to basic health care and coverage. That's emergency and essential coverage. They may be eligible for additional provincial social assistance, but that depends on the provinces. Of course, they can apply for a work permit.

I want to make sure we put that on the record.

Hon. Michelle Rempel Garner: I have a point of order.

That's factually incorrect. That's not what the interim federal health program covers. If you're presenting government talking points, I think you might want to read the eligibility requirements of the interim—

The Chair: That's not a point of order, Ms. Rempel Garner.

Hon. Michelle Rempel Garner: No, you've put something on the record—

The Chair: I have put it on the record.

Hon. Michelle Rempel Garner: You put it on the record as a point of debate, so you've introduced debate. It is not factually correct.

The Chair: I have not introduced debate.

Hon. Michelle Rempel Garner: Do you agree that there is an inconsistency in what you said on—

The Chair: Thank you very much, Ms. Rempel Garner. I'm going to ask that you're—

Hon. Michelle Rempel Garner: No, I have a point of order. I want to take this to a ruling.

You have asked for something to be put on the record that is factually incorrect.

The Chair: I don't agree with that. I think it's factually correct. It's not a talking point.

Hon. Michelle Rempel Garner: This is a point of debate.

The Chair: It is not a point of debate.

Hon. Michelle Rempel Garner: Do you understand what is in the interim federal health program, Chair? Do you understand that eye care is part of these things, as well as dental care, counselling services, prosthetics and hotel rooms?

The Chair: My understanding is that all of that is not part of it.

Thank you.

Hon. Michelle Rempel Garner: Okay. I would like my point put on the record as well.

Thank you.

The Chair: Great. Your point is on the record.

With that, thank you for your testimony and your contribution to our study on Bill C-12. We're very grateful for your excellent work at the IRB. I want to thank you and your team for your excellent work.

We're going to suspend for five minutes to change to the next panel.

• (1630) _____ (Pause) _____

• (1640)

The Chair: We're back.

We're now resuming with our second panel.

For the benefit of our new witnesses, I want to make a few comments.

Kindly wait until I recognize you by name before speaking. This is a reminder that all comments should be addressed through the chair.

Just as a warning, we do have votes today, so the bells may be ringing sometime towards the end of this panel, and at that point I will have to talk to my colleagues to see what they would like to do. I wanted to give you advance warning about that.

With that, I would now like to welcome our witnesses for the second panel.

From the Quebec Association of Immigration Lawyers, we have Julia Green. From the Refugee Law Lab, we have Dr. Simon Wallace, assistant professor. From the Canadian Bar Association, we have Deanna Okun-Nachoff, barrister and solicitor, and Cheryl Robinson, barrister and solicitor.

Each organization has up to five minutes for opening remarks, after which we will proceed to rounds of questions.

I will start with Ms. Green for five minutes.

Julia Green (Lawyer, Immigration, Association québécoise des avocats et avocates en droit de l'immigration): Hello. My name is Julia Green and today I am here representing the Association québécoise des avocats et avocates en droit de l'immigration, or AQAADI.

AQAADI's biggest concern with Bill C-12 is the fact that, if passed in its current form, it will mean that two types of people will no longer be able to make asylum claims in Canada: those who have been in Canada for more than one year and those who have entered Canada irregularly between legal points of entry from the United States. Instead, if these people wish to seek protection in Canada, the only option they will have is a pre-removal risk assessment that is offered to them before their removal from Canada.

When someone makes an asylum claim in Canada, their claim is referred to the Immigration and Refugee Board, or IRB, who we just heard from, where trained board members who adhere to strict guidelines evaluate the person's claim for protection during an oral hearing. Board members are highly qualified and trained to evaluate the complexities of asylum claims while taking into consideration the way things like trauma, cultural differences, language barriers and education levels may affect a claimant's way of telling their

story. They also take into consideration factors like how long it took a claimant to make their refugee claim, and each board member evaluates whether or not the delay was justified on a case-by-case basis.

If a board member makes a mistake in their decision somehow, which happens, because it's a human being making the decision, the IRB has an internal appeal mechanism. After that, if there are still any mistakes, claimants can go to the Federal Court.

Throughout all of this process, those claimants have something called a stay of removal, meaning that they cannot be deported back to their country of origin while their claim is still being evaluated to ensure there were no mistakes.

In essence, the IRB has legal checks and balances to make sure no one is going back to danger, as is Canada's duty under international law.

With a pre-removal risk assessment, PRRA, there is no mandatory oral hearing and applicants must submit all of their arguments and evidence on paper within 30 days. Then IRCC officers evaluate the claim, and they are not constrained by the same guidelines as the IRB. Furthermore, there is no mechanism under which a decision on a pre-removal risk assessment can be appealed.

The only recourse, if there maybe was a mistake in their decision on their PRRA, is to challenge it at the Federal Court. However, while waiting on the Federal Court to review that decision, there is no stay of their removal, which essentially means that they could be removed back to the country where they believe they are at risk before the court has determined whether or not the decision should have been overturned.

AQAADI is concerned that making the PRRA the first and only way that some people are able to ask for protection might end up with many people slipping through the cracks.

• (1645)

The Chair: You have one minute.

Julia Green: As lawyers in Quebec especially, we are particularly concerned with Bill C-12, because many foreign nationals in Quebec come from moratorium countries. Moratorium countries were mentioned last week, I think. Essentially, these are countries that Canada will not remove people to, in general, because the overall security situation is so bad. Examples of countries under a moratorium right now include Haiti, the Democratic Republic of Congo, Venezuela, Mali, Yemen and Ukraine, among others.

If someone from one of these countries falls into the two categories mentioned in Bill C-12 that I've already discussed, their only option to seek protection is the PRRA, the pre-removal risk assessment. However, a pre-removal risk assessment can only be offered when a removal is scheduled. If they come from a country where they can't be removed to, they end up in this legal limbo where they can't make an asylum claim and they can't ask for a PRRA. They're just kind of stuck in Canada in between. As lawyers working in a province that is home to many people from especially Haiti and the Democratic Republic of Congo, we find the possibility of so many people falling into this situation to be very problematic.

AQAADI strongly suggests that Bill C-12 not be passed unless the proposed amendments to paragraph 101(1)(b) of the Immigration and Refugee Protection Act be removed, as they risk compromising the efficacy of our refugee system. At the very least, there should be exceptions in the law for specific situations, such as for cases of domestic violence, unaccompanied minors, LGBTQ+ claims and people who come from countries where the situation has changed significantly since they arrived.

The Chair: Thank you, Ms. Green.

You have completed your five minutes. Maybe you can finish your testimony as part of one of the answers.

Julia Green: Sure. No worries.

The Chair: Next we have Mr. Wallace.

You have five minutes.

Simon Wallace (Assistant Professor, Refugee Law Lab): Thank you.

I come to you today from the Refugee Law Lab, a computational research lab based out of York University and Osgoode Hall Law School.

One of our purposes is to use new computational research methods to better understand how the refugee system functions as a system. Today, I'd like to share some empirical findings from an earlier paper on Bill C-12's proposal to transfer some refugee cases from the IRB system to the PRRA system—the proposed new ineligibility rules.

After computationally analyzing over 180,000 Federal Court of Canada files focusing on that refugee case subset, I come today with a very simple warning. If enacted, these provisions are likely to make the refugee adjudication system less efficient and not more efficient. The reason is simple. This bill does an end run around the refugee appeal division of the IRB. The RAD, as we all know, was created by the previous Conservative government, and now that we have the data, we can see the RAD for what it is—an efficiency success story.

Again, as you know, the ineligibility proposal is simple. It does not forbid new categories of people from claiming refugee protection in Canada. Rather, the proposal is to transfer jurisdiction for some refugee cases from the IRB system to the PRRA system.

As we just heard, the IRB is an expert tribunal with well-trained adjudicators, a world-class research directorate, dedicated legal services and massive institutional experience. Refused first-instance decisions can be appealed internally to the RAD.

We think of these often as rights-enhancing measures for refugee claimants, and they of course are, but there is another way to think of this. When the IRB refuses, its refusals are well justified. Its refusals are informed, and errors are caught by the RAD. This means—and this is probably my key point—that the IRB writes decisions that can be well defended in court.

In contrast, the PRRA was always designed to be a last-ditch safety net and not a front door. It's an important part of our refugee system, to be sure, but it's not a thoroughgoing study of the merits of really any case.

As I said, in 2012, the previous Conservative government made this major change. We got the RAD. My view is that there was no greater efficiency change in that period than the RAD. With all the data that we now have, we can see that the 2012 changes protected Canada's refugee system when it came under the greatest stress. We heard about the volume of cases from the IRB this morning.

I circulated some charts, so let me just give the quick hits.

Chart 1 that I've circulated shows the Federal Court's immigration caseload. After the 2012 amendments, the number of refugee cases that ended up in the Federal Court dropped significantly, despite the huge overall increase of refugee claims made in Canada. The RAD protected the court. This protected the system from expensive redos from court hearings, from lawyer fees and from backlogs. The bottom line is that the RAD works.

Chart 3 is maybe the more interesting chart for our purposes and for this bill because it shows what happens when cases do reach the Federal Court. The Federal Court—and again, this is what we just heard from the IRB—upholds RAD decisions about 95% of the time. When the Federal Court looks at an RAD decision, it has a high degree of confidence in that decision. In contrast, if I read the data correctly—and I make some arguments in the paper about how to read it—we're approaching a point where almost 40% of PRRA decisions, when they reach the court, are either overturned or settled, or something else happens.

There are two bottom lines. One, we found that the IRB and the RAD protect the court's caseload. Two, we found that when the PRRA decisions reach the court, they have much higher grant and settlement rates.

My argument is that if Bill C-12 passes as is, Parliament is going to end up transferring cases away from a part of the system that works, and works efficiently, to a part that will cause surges in the workload of the Federal Court.

Maybe in the first instance the IRCC is going to render PRRA decisions faster than the IRB. I don't know. Faster to error, though, is not more efficient. When the system is under pressure, it is more efficient to get it right the first time.

I sense that I am running low on time.

• (1650)

The Chair: You have seven seconds.

Simon Wallace: I'll leave it there and donate my seven seconds.

The Chair: Thank you so much, Dr. Wallace.

Ms. Okun-Nachoff, you have five minutes, please.

Deanna Okun-Nachoff (Barrister and Solicitor, The Canadian Bar Association): Thank you, Madam Chair.

I'm going to start by addressing the Canadian Bar Association's administration of justice concerns with Bill C-12.

We are building on our colleague Mario Bellissimo's testimony in your study on improving fairness in the immigration system and our longer report, "Law, Technology and Accountability" that contains 100 recommendations to improve accountability and transparency in Canada's immigration system. This report is highly relevant to our submissions today because, in our view, Bill C-12 is a step in the wrong direction.

Dramatic plans are afoot to restructure Canada's immigration landscape. The levels plan affirms the minister's mandate to reduce temporary residents from 6.5% to 5% of our population in just one year. Against this backdrop, we are here debating a bill that enables mass cancellations of applications by order in council and seeks to exempt those orders from certain steps in the legal vetting process. Why is there the need to bypass normal regulatory review?

Category-wide cancellations have been accomplished within the existing IRPA framework. For example, the federal skilled worker backlog was terminated in 2012. The current system is clearly not lacking in legislative mechanisms. We question whether mass cancellation is the right look for Canada. Our position is that they are not something we want to entrench, particularly by reference only to vague and subjective language like "in the public interest", certainly not without clear requirements for prepublication and committee study.

That an entire category of visas or applications impacting applicants who have substantially invested in Canada could be cancelled raises the spectre of litigation. Meanwhile, we risk tarnishing our ability to attract and retain top talent from around the world. The minister has said that she will limit her use of extraordinary powers to times of war, pandemic or cases of mass fraud, but no such parameters are imposed in the act itself. Nothing prevents a broader application by her or future ministers.

We also question whether fraud can be coherently addressed through category-wide cancellations without an unacceptable risk of charter violations. Prepublication, expert testimony and commit-

tee studies like this are important safeguards to prevent arbitrariness and unchecked growth of state powers and to ensure constitutional compliance.

We therefore ask that Bill C-12 be pulled for further study.

• (1655)

Cheryl Robinson (Barrister and Solicitor, The Canadian Bar Association): I'm going to continue. I'm going to talk about our second concern, which is the impact that the bill will have on Canada's ability to both prioritize and protect the most vulnerable.

The introduction of designated representatives in non-IRB matters is encouraging. This will enable the voices of the most vulnerable to be heard, children and others with significant mental health and trauma, as well as enable their participation in immigration proceedings; however, we are concerned that this entire scheme is being delegated to regulations and away from the review of Parliament.

The bill states that there may be circumstances where a DR may wholly make decisions on behalf of an individual. This could include whether to make an application or to waive an application such as a PRRA. This is substitute decision-making, and it goes beyond what has already been granted to the designated representatives before the IRB. As such, it requires further parliamentary study with consideration for the need for an independent oversight body.

Turning to the one-year refugee claim bar that has been a hot topic of conversation, we are concerned that this will not protect genuine refugees, as it is contrary to the lived experiences of refugees and our jurisprudence. Risk can arise after entry to Canada, and it does. Countries' conditions change, civil wars break out, minority groups become persecuted or, after time in Canada, a person may realize their sexual orientation or gender identity or come to grips with the trauma that has impacted them and prevented them from acting.

As the one year is tied to the initial entry to Canada, not the most recent, we can also imagine a very common scenario where an individual who genuinely fears persecution is barred from the refugee claim process because they came to Canada on vacation as a child. None of these individuals are protected by the one-year bar.

While there is access to the PRRA, this is not an adequate replacement as it lacks procedural safeguards, including a hearing. The diversion of these individuals to the PRRA system is simply a redistribution of inventory to the IRCC, which lacks the expertise of the IRB and will increase litigation at the Federal Court. PRRA litigation takes up twice the judicial resources because it has both an underlying judicial review and a motion for stay of removal. This is in addition to litigation around the provision itself and the constitutionality, which will create greater strain on our courts and impact access to justice.

Thank you very much, and we welcome any questions that the committee may have.

The Chair: Perfect. You had 15 seconds to spare.

Our first round is six minutes, and our first round goes to Mr. Menegakis.

Costas Menegakis: Thank you, Chair.

Thank you for appearing before us today.

Dr. Wallace, we heard testimony earlier about the asylum claim backlog. We knew that is was already in the hundreds of thousands due to failed Liberal immigration policies over the last 10 years. They have now put forward this bill, which will make the process less efficient and less fair and will certainly increase cost.

Would you agree that it at least appears that, through this legislation, the Liberals are trying to offload responsibility for the mess that has been created?

Simon Wallace: I have a real concern that the overall efficiency of the system is going to decrease when things are moved around. Essentially, more bureaucracy is going to be created as opposed to streamlined bureaucracy.

Costas Menegakis: Do you think it could be challenged in the courts?

Simon Wallace: I'm a law professor, so my job is to say that a lot of things can be challenged in the courts. My expectation is that there will be constitutional challenges.

Costas Menegakis: Can you repeat that?

Simon Wallace: I expect that there will be constitutional challenges, that somewhere along the way a client will instruct their lawyer—

Costas Menegakis: There are huge powers in here of mass cancellations and all kind of things. If it's not going to pass a court challenge, literally what the government is doing is leaving its policies to be made by the Supreme Court, potentially. We've seen that happen as recently as this week.

Simon Wallace: It could happen.

Costas Menegakis: Absolutely.

Ms. Okun-Nachoff, I wanted to reiterate your testimony a little. Would you recommend amending the mass cancellation provisions in Bill C-12 to include parliamentary oversight requirements, for example, something like a requirement to post the intent to use the provisions with sufficient details and a requirement for committee study?

• (1700)

Deanna Okun-Nachoff: Yes, absolutely.

I also question why this would be something accomplished through order in council. I think the regular regulatory process, which at times even includes a regulatory impact analysis statement, does help inform committee study.

Costas Menegakis: Thank you. That's very informative, very helpful.

Dr. Wallace, do you believe that the IRB offers a more comprehensive and accurate review of claims than PRRAs?

Simon Wallace: I do.

Costas Menegakis: What procedural safeguards do you see being stripped away that are available in the full IRB hearing compared to PRRAs?

Simon Wallace: A long list. The big one is the right to an oral hearing, which is something you presumptively get at the RPD. The IRB also has a robust infrastructure to support decision-making. You heard this morning about training. You heard about the research directorate, legal services and mentorship. The IRB's sole job is to make well-reasoned decisions. The IRCC has many jobs. My view is that if you give someone a specialized job function, they can specialize well in it.

Costas Menegakis: Given that you're a lawyer—

Simon Wallace: A recovering lawyer.

Costas Menegakis: —do you agree that shifting the responsibility for complex decisions of the IRB to a system with obviously fewer procedural safeguards, as you have just agreed to, will inevitably result in an increase in applications for judicial review at the Federal Court?

Simon Wallace: I do.

Costas Menegakis: Potentially, we could be clogging up our courts. There are hundreds of thousands of these applications out there.

The legislation will inevitably lead to an increased burden on the Federal Court of Canada, of course, but have you estimated the increased costs associated with this in any way?

Simon Wallace: It's very difficult because there are so many variables I can't control for, and I didn't want to predict.

One thing that I will say is that I would expect that this will show up in legal aid budgets. If we're also seeing more judicial reviews, those are inevitably more expensive, and I would expect some materialization there.

Costas Menegakis: Given the fact that the Federal Court system is already inundated, it can take months or even years. Does this not lead to a net increase in the total time an asylum claim can take?

Simon Wallace: It could, and I would say that, when you have a backlog at the Federal Court, it has downstream consequences throughout the entire judicial system, impacting other areas of law, not just immigration law, and—

Costas Menegakis: I'm sorry, but in the last 30 seconds, I have a question for all four of you. Do all four of you think that this can be challenged in court or will be?

Julia Green: Yes.

Cheryl Robinson: Yes, absolutely.

Costas Menegakis: Is it a unanimous yes?

Cheryl Robinson: There are numerous provisions. There's vague language. It's overbroad. There are constitutional concerns about section 15. There are a lot of reasons that it would be challenged.

The Chair: Thank you.

Our next questioner will be Mr. Zuberi for six minutes.

Sameer Zuberi: Thanks, Madam Chair.

Thanks to the witnesses for being here. I have a number of questions, and what I'm looking for are some suggestions for potential amendments to this legislation. I do appreciate your testimony fully, but that's how I'll frame my questions.

You testified about some challenges in relation to the one-year...and two points came out. One is the change in country conditions, which would make a material difference in terms of the decision related to an applicant; and, two, you mentioned minors and vulnerable claimants, trauma, and why, sometimes and in some instances, the one year wouldn't be sufficient. Do you have any suggested amendments you can provide for this one-year provision, keeping in mind these two concerns you brought forth?

• (1705)

The Chair: Who are you directing that to, Mr. Zuberi?

Sameer Zuberi: It's to whoever has something to suggest.

Cheryl Robinson: I'd like to start off, if that's possible.

I think the concern with amendments or, at least, exceptions, is that there are going to be broad categories that are always going to fall outside of that. I referenced the minors—for example, that person who came to Canada as a child on vacation—because that one-year bar is tied to the initial entry. As an adult they're not going to be categorized as a minor if they're looking for an exception as an adult. The issue is that the entry is tied to the initial entry and not the most recent, so that, as a very broad amendment, would maybe address some of the concerns.

Sameer Zuberi: You're suggesting having an amendment that says that the one-year time clock would start ticking as of the most recent entry.

Cheryl Robinson: If the one-year bar were to be retained, then I think that it would have to be, because otherwise it becomes even more arbitrary than it already appears to be at this time.

Sameer Zuberi: Certainly, and I appreciate, as I said, what you testified to in your opening remarks.

In terms of the change in country conditions, would you suggest that there would be amendments around the change in country conditions if it's fundamental to the claim? Maybe Mr. Wallace could answer.

Simon Wallace: I think that, of course, would be welcomed. One thing that is in my mind is that, once there are exceptions, they, in turn, become a site of potential litigation. There are, then, new risks that come with that approach, but I certainly think that a change in circumstances—

Sameer Zuberi: I have a number of questions and I'm hoping to get through them in my three minutes.

In terms of moratoriums, we heard testimony that moratoriums pose a unique situation. My understanding is that, in the case of moratoriums, there's no PRRA, and, therefore, the whole PRRA safeguard is just not available. Would you recommend, when you're dealing with moratoriums on deportation, that they automatically go to the IRB in those instances?

Julia Green: I would recommend that, yes.

Sameer Zuberi: Would you recommend, when it comes to the question of public interest and the opinion of the Governor in Council, that dossiers could be cast aside because of public interest concerns? We did hear from the minister; I'm sure that you looked at that testimony. The minister did say that, in very narrow circumstances, public interest would actually weigh in to enact that provision in the legislation. Would you say that there should be more precision on the notion of public interest? Is the notion of “public interest” defined in immigration law, as it relates to this legislation right now?

Deanna Okun-Nachoff: I don't believe that it is.

Moreover, I think that one of the examples of “in the public interest” was fraud. I wish that fraud could be that easily and categorically identified. Already we've seen from the CBC articles reporting how this might be used to deal with country-specific challenges.

For me, that immediately brings to mind whether or not we're going to have a section 15 issue with equality claims and profiling. Again, I worry about charter compliance.

Sameer Zuberi: From what I'm gathering from your testimony, the public interest isn't defined in immigration law as it relates to this legislation, to your knowledge.

Would you suggest that it be defined in order to express the will of the minister, which is that it be in exceptional cases?

I'll leave that to you in the next 30 seconds.

Deanna Okun-Nachoff: In the situation of a pandemic, there can be a bright-line test, perhaps, and similarly in a declaration of war.

When it's not something that is a bright-line test, I agree with Dr. Wallace that this is the type of thing that will become subject to litigation.

Sameer Zuberi: I would invite you to submit any amendments on these subjects to us in writing.

Mr. Wallace, if you haven't yet submitted your work on the 40% of claims from the PRRA that go to judicial review, please do submit it to us.

• (1710)

The Chair: Thank you so much.

Next we have Mr. Simard.

[*Translation*]

Mr. Simard, you have the floor for six minutes.

Mario Simard: Thank you very much, Madam Chair.

Ms. Green, in your opening remarks, you said that Bill C-12, in its current form, would severely limit the ability of two categories of asylum seekers to pursue a claim.

Can you elaborate on that so that we can better understand the limitations of the bill?

Julia Green: Do you want me to give you some examples?

Mario Simard: Yes, Ms. Green.

Julia Green: Okay.

Say a woman from Haiti comes to Canada—her husband is in Canada and sponsors her—and is waiting for her permanent resident status.

IRCC's processing time for sponsorship applications is very long. Let's say this woman has been here for more than a year and is still waiting for an answer on her sponsorship application. Let's say she's been experiencing domestic violence since arriving in Canada and now wants to cancel her sponsorship application. She doesn't have the right to ask for Canada's protection, because she's from Haiti. She can't be sent back to her country, but the fact that she has a work permit in Canada is not enough. If her children are still in Haiti, she can't sponsor them.

In this example, the woman's personal circumstances have changed. She would not be entitled to Canada's protection.

Mario Simard: Before Bill C-12, she could have done this type of thing.

Is that correct?

Julia Green: Yes, that's correct.

Mario Simard: You gave us a scenario.

Do you know if IRCC conducted an impact assessment before the bill was tabled?

Julia Green: Not to my knowledge.

Mario Simard: Have you personally seen such cases?

Julia Green: No, I haven't.

Mario Simard: Have you seen similar cases in the past?

Julia Green: Yes, I have. I specialize in domestic violence cases. Many of my clients experience situations like that.

Mario Simard: At the end of your opening remarks, you talked about exemptions that should be included in the bill, but you didn't have time to finish what you were saying.

Can you expand on that?

Julia Green: That's right, I did suggest that there should be exceptions. For example, I talked about domestic violence situations and cases involving a person's sexual orientation or gender identity.

I would say that, when there is a significant change in the asylum seeker's personal circumstances or the overall situation in their country of origin, that could be one of the exceptions.

Mario Simard: Do you think these exceptions should be added to the current bill through an amendment?

Julia Green: If the amendments to the Immigration and Refugee Protection Act go through, those exceptions could be added.

Mario Simard: I'm certainly not a legal expert.

Do you know where this amendment should be added?

I would like you to send us your answer in writing.

• (1715)

Julia Green: Okay.

The Chair: You have one minute left, Mr. Simard.

Mario Simard: Thank you, Madam Chair.

I have a question for all of the witnesses.

I'd like to know what they think of the minister getting more powers.

What impact could that have?

I'm not sure which witness is best suited to answer that question.

[*English*]

Deanna Okun-Nachoff: I think one of the things we're hearing is that we are trying to accomplish multiple things through our immigration programming, including trying to meet their unique labour market needs. As I said in my opening remarks, I think one of the real concerns is that there will be this downstream effect where, by making decisions where we can't foresee what the end impact will be, it will actually hurt our reputation and make it difficult for us to attract that talent. It will end up having a negative effect on those economic goals that the minister has before her.

The Chair: Thank you so much.

[*Translation*]

Thank you, Mr. Simard.

[*English*]

Now we will move to five-minute rounds.

Mr. Ma, you have five minutes.

Thank you.

Michael Ma (Markham—Unionville, CPC): Thank you, Madam Chair.

My questions will be addressed Ms. Okun-Nachoff.

Earlier today, you talked about the report that you published this year, entitled “Law, Technology, and Accountability”. In section 2.1, you speak out against the “top down” and “ad hoc” nature of ministerial instructions, public policies and technocratic decision-making. You also outlined that these non-regulatory instruments weaken “public confidence in the system's integrity”.

Do you feel that part 7 of Bill C-12 is further breaking the Canadian immigration system by taking us in this direction of top-down, ad hoc and technocratic decision-making?

Deanna Okun-Nachoff: In a word, yes.

Michael Ma: Thank you.

Deanna Okun-Nachoff: I think the Canadian Bar Association spoke quite clearly about the fact that the creation of ministerial instructions was a way of subverting the regulatory process. We have seen how it has created a real patchwork of different programs that have made it difficult for people to follow what the avenues were, and have diminished transparency for people who are coming to Canada.

Michael Ma: Thank you.

There was an article in CBA's National Magazine advertising your 100 recommendations, which, again, you mentioned earlier. You said, “There's a joke around the Immigration Section that if you go out for a cup of coffee, when you come back, there are new rules in place.” You spoke about the “lack of transparency, consistency, discussion and debate in working through policies before they're enacted and start impacting people's lives.”

Salma Zahid: I have a point of order.

Madam Chair, the bells are ringing.

The Chair: Thank you.

The bells are ringing, so I would need unanimous to continue. Can I get unanimous consent for us to continue until 5:30?

An hon. member: No.

The Chair: Since we do not unanimous consent, I will now adjourn the meeting. Before I do that, thank you so much to our witnesses. That was excellent.

The meeting is adjourned.

● (1720)

Published under the authority of the Speaker of
the House of Commons

SPEAKER'S PERMISSION

The proceedings of the House of Commons and its committees are hereby made available to provide greater public access. The parliamentary privilege of the House of Commons to control the publication and broadcast of the proceedings of the House of Commons and its committees is nonetheless reserved. All copyrights therein are also reserved.

Reproduction of the proceedings of the House of Commons and its committees, in whole or in part and in any medium, is hereby permitted provided that the reproduction is accurate and is not presented as official. This permission does not extend to reproduction, distribution or use for commercial purpose of financial gain. Reproduction or use outside this permission or without authorization may be treated as copyright infringement in accordance with the Copyright Act. Authorization may be obtained on written application to the Office of the Speaker of the House of Commons.

Reproduction in accordance with this permission does not constitute publication under the authority of the House of Commons. The absolute privilege that applies to the proceedings of the House of Commons does not extend to these permitted reproductions. Where a reproduction includes briefs to a committee of the House of Commons, authorization for reproduction may be required from the authors in accordance with the Copyright Act.

Nothing in this permission abrogates or derogates from the privileges, powers, immunities and rights of the House of Commons and its committees. For greater certainty, this permission does not affect the prohibition against impeaching or questioning the proceedings of the House of Commons in courts or otherwise. The House of Commons retains the right and privilege to find users in contempt of Parliament if a reproduction or use is not in accordance with this permission.

Also available on the House of Commons website at the following address: <https://www.ourcommons.ca>

Publié en conformité de l'autorité
du Président de la Chambre des communes

PERMISSION DU PRÉSIDENT

Les délibérations de la Chambre des communes et de ses comités sont mises à la disposition du public pour mieux le renseigner. La Chambre conserve néanmoins son privilège parlementaire de contrôler la publication et la diffusion des délibérations et elle possède tous les droits d'auteur sur celles-ci.

Il est permis de reproduire les délibérations de la Chambre et de ses comités, en tout ou en partie, sur n'importe quel support, pourvu que la reproduction soit exacte et qu'elle ne soit pas présentée comme version officielle. Il n'est toutefois pas permis de reproduire, de distribuer ou d'utiliser les délibérations à des fins commerciales visant la réalisation d'un profit financier. Toute reproduction ou utilisation non permise ou non formellement autorisée peut être considérée comme une violation du droit d'auteur aux termes de la Loi sur le droit d'auteur. Une autorisation formelle peut être obtenue sur présentation d'une demande écrite au Bureau du Président de la Chambre des communes.

La reproduction conforme à la présente permission ne constitue pas une publication sous l'autorité de la Chambre. Le privilège absolu qui s'applique aux délibérations de la Chambre ne s'étend pas aux reproductions permises. Lorsqu'une reproduction comprend des mémoires présentés à un comité de la Chambre, il peut être nécessaire d'obtenir de leurs auteurs l'autorisation de les reproduire, conformément à la Loi sur le droit d'auteur.

La présente permission ne porte pas atteinte aux privilèges, pouvoirs, immunités et droits de la Chambre et de ses comités. Il est entendu que cette permission ne touche pas l'interdiction de contester ou de mettre en cause les délibérations de la Chambre devant les tribunaux ou autrement. La Chambre conserve le droit et le privilège de déclarer l'utilisateur coupable d'outrage au Parlement lorsque la reproduction ou l'utilisation n'est pas conforme à la présente permission.

Aussi disponible sur le site Web de la Chambre des communes à l'adresse suivante :
<https://www.noscommunes.ca>