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Chair

Mr. Borys Wrzesnewskyj

Standing Committee on Citizenship and Immigration

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• (1530)

[English]

The Chair (Mr. Borys Wrzesnewskij (Etobicoke Centre, Lib.)): Good afternoon. Pursuant to Standing Order 108(2), and the motion adopted by the committee on October 4, 2016, and April 3, 2017, the committee will resume its study on immigration consultants.

In our first panel today, we have before us, by video conference, Mr. Richard Kurland, a lawyer and policy analyst who has appeared before the committee a number of times. Welcome back.

From the West Coast Domestic Workers' Association, we have the executive director and staff lawyer, Ms. Natalie Drolet. Welcome.

We'll begin with Mr. Kurland, for seven minutes, please.

Mr. Richard Kurland (Lawyer and Policy Analyst, As an Individual): Thank you, Mr. Chairman.

It's indeed an honour and a privilege to appear before the committee. I'd like to preface my remarks with a description of the decades of intervention on this particular issue.

The immigration consulting issue encompasses the protection of people desirous of becoming Canadians and desirous of visiting our country. I'll distill the issues plainly and simply. When it comes to the issue of immigration consultants, the key is who can fix this and how to motivate the institution to fix this.

I've read the submissions of other witnesses appearing before the committee. What seems clear to me is that there is only one single entity capable of handling the immigration consultant issues and that is the department, not the provincial level and not the regulatory authorities, provincial or federal. Only our public servants, working within the immigration department, can truly and practically get to the bottom of this. Why? It is only the department that has the capability of identifying who accesses our immigration operational system. It is the department that controls this access. The department has the tools and mechanisms to prevent contact with the departmental systems, and the department has the means to allow access.

The two obstacles preventing resolution of the immigration consultant issue for over 20 years are basic. The first level is unseen. Our governance in Canada, for social engineering purposes, in terms of multi-year, long-term strategy, emanates from the Privy Council Office. Within that office, there is a directive to prevent the judicialization of Canadian society. We do not want a litigious

society as it appears in our neighbour to the south. Consequently, when it comes to dealing with immigration consultants, there is a hidden unseen directive to prevent the legalization, the judicialization, of the issue.

On the other hand, there is the desire to offload client contact from the department, where possible. What does this mean? This means that the department prefers to have a three-tier delivery system. Tier one includes members of Parliament and senators, preferred service; tier two has the regulated professions, lawyers and consultants; and tier three has unrepresented members of the public.

Here's where I'll conclude my opening remarks. The cheapest, easiest, most direct way to resolve this is to require third party representation on every application for service. In this manner, the applicants are driven to publicly regulated individuals: licensing, insurance, protection of the public. It allows the applicants to pay for service.

• (1535)

It should not be mandatory, but a preferred service system for represented applicants would go a long way to preventing abuse and would save the department money by using trained officials—lawyers and consultants who are regulated. It is going to be up to the department to make this decision. It can do it now. It has the artificial intelligence mechanisms in the incoming application processing system to do this.

To sum up, all you've been hearing to date have been different sides of the elephant, how it got into the room, and individual concerns and group concerns. At the heart of all this is the key, the central decision, on the part of our immigration public servants to allow access to third party representatives, and reward applications with third party representation with preferred service times, or more reliability in terms of the product that's entering the system.

I hear the self-interest bell ringing, but over 20 to 25 years I have not come up with a better solution, other than hiving off ever greater chunks of the operational delivery system onto the offices of our elected officials.

Those are my opening remarks. Thank you.

Ms. Natalie Drolet (Executive Director, Staff Lawyer, West Coast Domestic Workers' Association): Good afternoon, and thank you for the opportunity to appear before you today.

I'm here representing the West Coast Domestic Workers' Association, a non-profit organization that since 1986 has been dedicated to providing pro bono legal services to caregivers and other low-wage, temporary foreign workers. About 80% of our services are in immigration law.

Temporary foreign workers in the low-wage streams are a uniquely vulnerable category of newcomers. They face unique vulnerabilities due to certain aspects of the rules of the temporary foreign worker program itself. For example, in order to apply for a work permit, the program requires that they must secure a job offer, employment contract, and labour market impact assessment from a Canadian employer. This leaves temporary foreign workers with little choice but to hire third party employment agents in order to get connected with an employer in Canada.

These agents are more often than not working in a dual role as immigration consultants and employment agents. We see immigration consultants typically charging temporary foreign workers anywhere from \$4,000 to \$16,000 for low-wage jobs in Canada. Recently, an IRCC officer in Vancouver told me that he had a case of a temporary foreign worker who paid \$40,000.

Temporary foreign workers are willing to pay these fees because they are counselled by immigration consultants that they would have a pathway to permanent residence in Canada, which is often not the case. This dual role presents a jurisdictional issue. As you know, immigration is federally regulated and employment is provincially regulated. In B.C., it is illegal to charge workers for jobs. Immigration consultants know this, so they recharacterize their employment services fees as immigration services.

I would like to share a couple of examples of this. Last year, our organization represented two caregivers. We won our case at the B. C. Court of Appeal involving a registered immigration consultant who was in a dual role as an employment agent. At the first instance, the director of employment standards found that the immigration consultant had charged illegal recruitment fees to these women, and the immigration consultant argued that she should be able to charge temporary foreign workers fees for jobs because the IRPA gave her the right to do so.

The second example involves a case of mass fraud by a registered immigration consultant in B.C. whereby temporary foreign workers were charged \$8,000 for jobs that were no longer available when they arrived in Canada. Some of the workers were sent by the consultant to do unauthorized work, and were subsequently arrested and detained by the CBSA. A class action lawsuit has been filed against this immigration consultant, and the certification hearing took place last week in the B.C. Supreme Court in Vancouver. This consultant has also been under investigation by the CBSA for three years for various violations of the IRPA, including human trafficking.

This concern has been a concern of provinces. Saskatchewan, for instance, enacted the Foreign Worker Recruitment and Immigration Services Act to protect all foreign nationals from unethical practice and exploitation in recruitment and immigration processes. In doing so, the province found it necessary to regulate immigration consultants. The code of professional ethics of the ICCRC was adopted in the regulations, a violation of which could be considered

a violation of the act and subject to its penalties. The Province of Saskatchewan thus recognized the need to end the self-regulatory regime and hold immigration consultants to account for their own code of ethics.

I am now going to turn to three recommendations. First, we need to end the self-regulatory regime of immigration consultants. The 2011 IRPA amendment was an attempt to clean up the sector in response to this committee's report in 2009. It is clear that the remedy has not proven effective due to the lack of ICCRC's enforcement of its own ethical and professional standards. What is needed is a proactive, federal government regulation of immigration consultants. I would agree with Mr. Kurland on this point.

Second, applicants should not be penalized for the actions of consultants. Applicants should have the opportunity to correct errors and misrepresentations made by immigration consultants in their applications. They also need a guarantee that they won't be penalized if they come forward to file a complaint. Currently, people who come forward are the focus of scrutiny and are at risk of being detained and deported. The government should allow temporary foreign workers to regularize their status and remain in Canada while complaints are processed, whether through the department, regulatory body, the CBSA, or another enforcement agency.

There is a precedent for this in B.C. with the work permits for temporary foreign workers at-risk pilot project, which is quite new between the B.C. government and the IRCC, and which issues open work permits to temporary foreign workers who file complaints.

● (1540)

We need a paradigm shift to focus on building security and maximum protection for applicants. This will empower people to come forward, and will also serve as a disincentive to immigration consultants to continue exploiting vulnerable workers.

My third recommendation is really connected to the vulnerability of workers that is inherent in the temporary foreign worker program itself. These workers are rendered extremely vulnerable by virtue of the employer-specific work permits that they receive. If we want to reduce their vulnerability to the unscrupulous practices of immigration consultants, at a minimum, TFWs need open work permits. We see immigration consultants frequently counselling workers to engage in unauthorized work. At the same time, workers depend on their employers and agents for the ability to remain in Canada.

Employers frequently refer workers to specific consultants who then exploit them. The power imbalance between agents and employers and workers creates the conditions that enable this type of exploitation, and even human trafficking of temporary foreign workers, to occur.

In addition, granting permanent resident status on arrival would go a long way to fundamentally alleviating this vulnerability to exploitation. Part of the paradigm shift to focus on building security for TFWs should include moving away from temporary migration programs towards permanent status.

Should the government decide to continue the practice of issuing employer-specific work permits, then the government should mandate that provinces enact regulatory regimes with proactive enforcement—such as those in Saskatchewan, Manitoba, and other provinces—to protect temporary foreign workers in their recruitment.

Thank you.

The Chair: Thank you, Ms. Drolet.

Mr. Tabbara, you have seven minutes, please.

Mr. Marwan Tabbara (Kitchener South—Hespeler, Lib.): Thank you, Mr. Chair.

Thank you also to the witnesses for coming here today.

Ms. Drolet, you mentioned applicants being penalized for coming forward, being vulnerable.

Mr. Kurland, you mentioned preventing abuse.

I want to refer a little to the Australian system with the Office of the Migration Agents Registration Authority, also known as MARA.

If you are choosing an immigration agent, one website offers some recommendations. I'm going to read them off to you:

All registered migration agents have a unique Migration Agents Registration Number (MARN).

You can check if a person is registered by searching for their MARN on the MARA website....

No person can guarantee you will get a visa—even if the person is a registered migration agent.

There are a lot of recommendations in the Australian system. I believe they have these to prevent a lot of the abuse and misinformation that is given by these agents to their clients.

You mentioned in your testimonies about the abuse and vulnerability. Could you elaborate on that, and do you agree with certain aspects of the Australian system?

I can start with you, Ms. Drolet.

• (1545)

Ms. Natalie Drolet: I haven't had the opportunity to look at the Australian model in much detail, unfortunately. However, I think the more information that can be made publicly available to applicants on the IRCC website would go a long way towards preventing abuse, especially if information can be made available in plain language, and in different languages as well, in order to make it more accessible.

Mr. Marwan Tabbara: Mr. Kurland.

Mr. Richard Kurland: I think the Australian model is good. The information resources parallel the Canadian information resources publicly available. That's good too, but that's not the issue.

Look at the Canadian example of work permits, labour market impact assessments for the operator-owners of businesses. About a year and a half to two years ago, that became the new mantra because it was a workaround towards a permanent resident visa, where you did not need language at the same levels and where you did not have to demonstrate source of funds. Essentially, you could bootstrap yourself to permanent residence.

Everyone in the policy end knew that this was an unsustainable category. The word went out that this particular category would be closed effectively by reducing the number of points from 200 to something lower in terms of express-entry, the mechanics.

Agents globally saw this as an open wallet. That's the issue. How do you motivate agents taking advantage of a gap in the fence that most reasonable people would realize would be closed? The same thing is about to happen with the British Columbia provincial nominee program's new entrepreneur rules. The cheap, easy fix is to have our department officials liaise with the regulatory authorities and use the ethical rules of conduct as a mechanism to administer the actions of members. That might be a realistic solution.

Mr. Marwan Tabbara: We've heard other witnesses mention that the government should instead pass legislation to set up a government oversight body to regulate migration consultants.

Which way do you recommend to improve the current situation most efficiently?

Mr. Richard Kurland: My preferred solution is to borrow budget, considering that no new resources may be available. Borrow budget from the RCMP and CBSA, and allocate it to IRCC. That's where the heavy lifting occurs. It can be done proactively on screening intake, and it can certainly be done within IRCC. The witness alluded to the absence of a reward system for telling the truth and going after the bad guys. If you allocate resources towards enforcement and the illumination of problem areas, you can then liaise with the regulatory authority already in place and put out those campfires one by one. The whack-a-mole method works when it comes to immigration consultants.

• (1550)

Mr. Marwan Tabbara: Ms. Drolet, can you comment?

Ms. Natalie Drolet: I agree that the solution would be oversight by the federal government. This would help restore public confidence in the immigration system. I also like Mr. Kurland's idea about reallocating resources from the CBSA. If we're going to try to protect workers and incentivize them to come forward with complaints, resources dedicated to investigating those workers could be shifted to the department instead to regulate the wrongdoers, the immigration consultants.

Mr. Marwan Tabbara: Mr. Chair, how much time do I have?

The Chair: You have one minute.

Mr. Marwan Tabbara: I'll give that one minute to my colleague.

Ms. Julie Dzerowicz (Davenport, Lib.): This question is for Ms. Drolet.

Do you work with ICCRC in any way? Do you file any complaints with them? Do you find them useful in any way? Are they helpful to you? If you had some recommendations on how to improve that, what would they be?

Ms. Natalie Drolet: Our office doesn't have the resources to help people to file those complaints. To file a complaint, there is a set of evidence that would need to be brought forward, as well as testimonies of complainants. However, we have been contacted by temporary foreign workers who have tried to file complaints and have not been referred to the disciplinary committee. What I gather from that process is that the process with ICCRC is not sufficient.

Law societies—

The Chair: Thank you. Perhaps you can carry that thought over to some of the other questions.

Mr. Tilson, go ahead.

Mr. David Tilson (Dufferin—Caledon, CPC): Thank you, Mr. Chairman.

Mr. Kurland, it's always a pleasure to see you, even though I don't always agree with what you say. It's always generally good advice.

You indicated that you had read some of the testimony of previous witnesses. We had a young lawyer from the Canadian Bar Association here recently. His position was to get rid of all the consultants, which, quite frankly, I find rather self-serving for lawyers. I'm not so sure we should get rid of all the consultants. From the testimony that we've heard to date, the question is, are they properly educated? Are they charging too much? Are they giving proper advice? Are they competent? Those are some of the things we've talked about.

I'd like to hear your comments. I like your idea that perhaps these issues should go to the department, and I like your idea of allocating resources from other groups to deal with this. My view is that it is just as with lawyers—if someone doesn't like a lawyer's fee, there is a way to go after that lawyer. Lawyers are well educated, and paralegals are reasonably well educated, although I think lawyers don't like them either.

I'd like to hear some of your comments about whether we should continue with the process of having consultants.

Mr. Richard Kurland: It's one of these situations where reasonable people can reasonably disagree. I take a different path from the Canadian Bar Association's official position this time around, and there's no surprise there. I have been supporting the consultant issue in pre-embryonic times, and over a couple of decades I've found that there's high value in our former public servants' continuing their duties and responsibilities in their post-employment environment.

The policy vehicle that I highly recommend to this committee at the present time is borrowed from the Canada Revenue Agency: a voluntary disclosure program. This can be used within IRCC, CBSA, in file-specific matters where a person need not identify their name. Strike a deal, and if the facts are true then the person can be blessed with forgiveness, and the government gets the evidence it needs to shut down unscrupulous consultants and agents. The same voluntary disclosure program may apply within the regulatory authority. Right now there is no such creature.

The regulated should never fear their regulator. There should be a more collegial atmosphere.

• (1555)

Mr. David Tilson: Ms. Drolet, do you have any thoughts on this subject? Do we need consultants?

Ms. Natalie Drolet: Consultants can play a role in assisting in immigration services, but like Mr. Kurland, I think the issue here is effective regulation of those consultants, making sure we can guarantee that those consultants will be effectively regulated in order to protect the public. We need to fundamentally shift from the self-regulation regime to a government department regime for regulation.

Mr. David Tilson: Mr. Kurland, I have a question with respect to ghost consultants, or those people who perhaps are practising as consultants but are not licensed to do so. If the ICCRC were to have similar tools to those of the law societies of the different provinces, would they have enough tools to go after the consultants, just as a law society can go after someone who's practising law and is not a lawyer?

Mr. Richard Kurland: There are two quick answers to that. First, it's nice to have keys to the car; it's nice to have a car. Where's the gas? Who's going to fuel this enforcement action to a reasonable degree? Secondly, the car stops at the ocean, so for much of the nefarious activity, you end up with a flooded engine. You're not going anywhere.

Mr. David Tilson: That's true, although we've heard testimony to the committee that licensed consultants hire a group of people who are not licensed to advise people to appear on matters. They're not licensed to do so. To me, those people are ghost consultants as well, even though the licensed consultant is responsible for what those people do. As far as I'm concerned, they're ghost consultants. Those people are in the country and are practising the work of a consultant even though they're not licensed.

Do you have any thoughts on that, Mr. Kurland?

Mr. Richard Kurland: I strongly agree, sir. There should be a little light that goes on. In the example of the “Sunny” Wang case, I'm not sure why it took three years to bring the consultant to justice, but somewhere in the computer system there's a device that should signal that a particular licence-holder is taking carriage of in excess of 200 cases, 500 cases, or 3,000 cases. How can they ethically supervise every single case? That kind of heads-up should trigger an immediate audit by the regulatory authority.

Mr. David Tilson: But there's no process to do that now. Is that correct?

Mr. Richard Kurland: There is provincially. When it comes to consultants, I don't think the regulatory authority has access to the data. IRCC has access. They should begin to share and liaise on the ethical conduct side.

Mr. David Tilson: As far as enforcement is concerned, how effective has the regulator been?

Mr. Richard Kurland: There's goodwill, but I haven't seen the coffins line up.

Mr. David Tilson: Okay. We've come to an end.

Thank you.

The Chair: Ms. Kwan, you have seven minutes, please.

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

I thank the witnesses for their presentation.

Ms. Drolet, regarding the impact on applicants of the work of their consultants, in some cases there are people who rely on unregistered or unlicensed consultants. To that end, if an application is submitted by someone who is not licensed and there is misinformation or even misrepresentation in the application, would you agree that in those scenarios, the government should accept those applications but do something about the consultants—who were not licensed and were ghost consultants in that instance—without impacting the applicants?

•(1600)

Ms. Natalie Drolet: Yes. I would agree that this scenario occurs quite frequently and that IRCC should continue processing those applications if there has been misrepresentation or errors by the consultant, regardless of whether they are a ghost consultant or a registered consultant. I would then suggest that IRCC refer those cases to the CBSA for enforcement.

Ms. Jenny Kwan: Should the government, for example, establish a system whereby if you are not a licensed consultant you actually cannot provide services?

Ms. Natalie Drolet: Yes. Currently, the categories of individuals who can represent clients include lawyers and registered immigration consultants, so to a degree those ghost consultants are already excluded. There is an exception for people who work for non-profit organizations and don't receive a fee to represent individuals. Non-profit organizations have good faith. They have mandates to serve the public, and it would make sense for them to be able to continue to represent individuals, regardless of not being registered.

Ms. Jenny Kwan: Then it would be for non-profits who are doing the good work they are doing, and for those who are registered, whether they are lawyers or consultants. If you are not, though, then you would not be able to practise immigration consulting work.

Ms. Natalie Drolet: Yes. I would agree with that.

Ms. Jenny Kwan: Mr. Kurland, what are your thoughts on that?

Mr. Richard Kurland: I think we can also drill down, as our common province, British Columbia, does in the case of new drivers. We have a graduated authority. You have an N on your car for a new driver and an L on your car for a learner, until you graduate to being full-fledged driver. The same possibly can be held for consultants.

After all, I do not see the consultants as having the competence, the day after they obtain membership, to conduct a full-blown refugee hearing. Maybe they can handle the study permit application, and possibly a work permit application, but not a complex permanent resident application and certainly not an oral hearing at the Immigration and Refugee Board. Thought may be given to reducing the potential for abuse and error by providing a gradual entry to full service if you are a consultant.

Ms. Jenny Kwan: I guess another way to put it is to say that under a certain licence, there are certain categories within the spectrum of immigration work that you can engage in. If you have not reached those levels, you would not be able to practise in that sense.

Mr. Richard Kurland: Yes.

Ms. Jenny Kwan: Related to that, one of the big issues, of course, is the high cost and the fee associated with it. Would you agree that the government should bring in a system of a fee schedule for certain kinds of work? For example, if you're going to fill out form XYZ, here's the fee schedule that's associated with it. Do we need some sort of approach with respect to that, so we can prevent applicants from being taken for a ride with exorbitant fees?

Ms. Natalie Drolet: I think there would be challenges with that proposal because not every applicant or application is the same. There may be complexities in one versus another, so I think it would be a bit of a challenge to come up with a fee schedule. There isn't really a precedent for that currently, I would think.

Ms. Jenny Kwan: No. There isn't currently, but I think about legal aid work, for example. Legal aid comes with a fee schedule. There are certain steps and procedures that you go through in the court system and there's a fee schedule that applies, so I'm thinking it would be a similar system to that effect.

Mr. Richard Kurland: Yes. It's creative. It is possible to come up with resource gathering policies, but they may be politically difficult. For example, we can adopt a practice in immigration of some other countries, western democratic countries, where we say this consultant, this lawyer, is entitled to access preferred service, faster service, but for a processing fee. The processing fee goes, and there's your money to enforce and prevent abuse, so it's a tough trade.

•(1605)

Ms. Jenny Kwan: That wasn't really what I was talking about, though, because then you're talking about allowing for a system where people can jump the queue if they can pay more. I'm talking about bringing some fairness into the cost of the consulting work for the applicant, because they're very onerous, the fees for the applicants. What sort of fair system can we put in place? That's what I was trying to get at.

Let me just turn to a different question because I know in B.C.—I'm very proud of it in my own community in Vancouver—there is a safe house that's been established for live-in care workers, for example. People get abandoned on the roadside. It could be because of a bad consultant; it could be because of the bad employer, so that house was established.

Would you say that that's an important process that we should set up across the country?

Ms. Natalie Drolet: I think it's a remedy to the current problem. I think issuing open work permits would alleviate the problem of live-in caregivers being left homeless after leaving an abusive employer.

Ms. Jenny Kwan: Quickly, Mr. Kurland....

Mr. Richard Kurland: Yes. I just rebound with the voluntary disclosure program. That really would fix a lot of cases that you've described.

The Chair: Thank you.

Ms. Zahid, you have seven minutes please.

Mrs. Salma Zahid (Scarborough Centre, Lib.): Thank you, Chair. Thanks to both the witnesses for appearing before the committee.

My first question is to both the witnesses. Both of you could provide your input. The issue of immigration consultants keeps coming back to this committee. Reports are written, the government takes action, but we keep ending up back here again. We can tinker around the edges, but I see a real issue with the domestic ghost consultants. They don't fall under the purview of the ICCRC, and we heard earlier in our study that the CBSA only has the resources to go after the most egregious offenders, so we have this wide open door for those ghost agents.

It seems to me that there are few options on the table. Can I have your input? I would like to get recommendations and input from you both on that. Should we give the ICCRC more authority to allow them to go after those non-registered consultants?

The second part too is that given what we have heard about how they are functioning, do we replace the self-regulation model with a government regulation? Ms. Drolet, you touched on that, too. Here in this study, some suggestions that came from the Canadian Bar Association restricted the field only to immigration lawyers registered with the law society.

What do you both think of those options, or do you have some better options?

Ms. Natalie Drolet: With regard to your first question around whether ICCRC should have more authority to investigate ghost consultants, I think the evidence is clear that the ICCRC has failed to properly investigate and enforce their own codes of professional and ethical standards. I would therefore be reluctant to widen the pool of people who they would then be responsible for investigating and regulating.

As I said before, I think that a solution is to replace the self-governing model currently in place with a department, with a government model, in order to restore public confidence, frankly.

Mrs. Salma Zahid: Sorry, but what do you recommend for the non-registered consultants, which CBSA doesn't have the resources to deal with?

Ms. Natalie Drolet: CBSA does not currently have the resources. However, resources should be expanded so that these complaints can be filed, or if the government begins a regime of regulating immigration consultants, resources should be allocated to the department to conduct those investigations.

Mrs. Salma Zahid: Okay. What about the other part, the Canadian Bar Association's recommendations?

Ms. Natalie Drolet: With regard to restricting the practice to immigration lawyers, in an ideal world, everyone would have access to justice and would have the ability to afford services. I think

immigration consultants can play a role in certain types of immigration applications.

We may want to consider looking at what scope of practice immigration consultants should reasonably be permitted to be able to provide services under. Perhaps things like appearing before the IRB should be eliminated, because that does require an understanding of the law and legal processes, which is not part of the education of consultants.

• (1610)

Mrs. Salma Zahid: Yes, Mr. Kurland.

Mr. Richard Kurland: You know, I recall the same issue raised when it came [*Technical difficulty—Editor*] and foreign students in Canada. I remember saying for five years, almost 10 years, that the solution is that every school needs a designated institution number. If you're not on that list of designated schools, you can't get a study permit that gives you access to things like a post-grad work permit. Finally, we have a system in place just for that. The same model can be rolled out for certain long-term immigration services from your long-term residence permit. Unless you have a designated representative number on your application, you may not be able to get that particular immigration service done.

Yes, it will drive traffic to designated representatives, but guess what? That's how you get rid of the ghosts. You build into the system an integrity component, and the user will pay for that integrity examination. The representative literally puts their number on the line with every case. You give off to the private sector that enforcement mechanism. Ghosts cannot access those particular services because they don't have a number.

Mrs. Salma Zahid: What about the suggestion of the Canadian Bar Association?

Mr. Richard Kurland: With due respect, I have a difficult time with that one, on many levels. I also have a concern that if the federal level of government were to regulate the immigration consultants, there would be a temptation for overlap between the immigration authorities, CBSA, RCMP, and that regulatory authority. You'd need some significant protection there if that regulatory oversight body were to have credibility in the industry.

Mrs. Salma Zahid: Thank you.

We heard from one of the witnesses during this study that section 91 of the IRPA makes it illegal to represent or advise a person on immigration matters for compensation unless they are a lawyer or a registered consultant. It could be viewed as prohibiting settlement service agencies from helping clients with immigration matters. Although they don't charge for the service, they are compensated by their employers.

Do you share this concern, and if so, what action would you recommend, Ms. Drolet?

Ms. Natalie Drolet: I think it would be useful to look at the mandate of the settlement agencies, which is to provide information and referral services. It's not to provide representation.

That said, as I said before, I think non-profit organizations operate in good faith. They are there to serve the public in their best interests. I do think that individuals who are part of a non-profit organization who are not charging fees should be allowed to continue to represent individuals.

Mrs. Salma Zahid: Thank you.

The Chair: Mr. Tilson, you have five minutes.

Mr. David Tilson: Thank you very much. I'd like to yield the floor to Ms. Kwan.

Ms. Jenny Kwan: Thank you very much to my colleague, Mr. Tilson, for yielding the floor to me.

Mr. Chair, I'd like to move the following motion at this time:

That pursuant to Standing Order 108(2), that the Committee immediately undertake a study of land arrivals at Canada's southern border, including: the impact of current realities at the border on safety and security of both refugees and Canadian society; the effective management of refugee claims at the border, within the context of Canada's international human rights obligations; and how to ensure an efficient and effective refugee determination process. That this study should be comprised of no less than five meetings; that IRCC department officials be in attendance for at least one of the meetings; that CBSA officials be in attendance for at least one of the meetings; and that RCMP officials be in attendance for at least one of the meetings; that the study be concluded and that the Committee report its findings to the House prior to June 9, 2017; and that Pursuant to Standing Order 109, the government table a comprehensive response thereto.

Mr. Chair, Canadians are deeply concerned and dismayed about President Trump's appalling immigration ban. I share their concerns, and I strongly believe that a ban against individuals based on race, religion, or country of birth implemented by our closest neighbour cannot be tolerated by Canada. This deeply misguided policy not only sends a chill of intolerance around the world, but it emboldens racist sentiments and contributes to the unleashing of overt acts of racism. Canada has always been a shelter for those who need it, and in these unprecedented times, it is critically important that we establish a clear path for Canada to step in and do our part.

I believe that all committee members are well aware of the current situation within our border communities. People are risking life and limb to come to Canada. Why? The answer is that they do not feel the U.S. is a safe haven for them. I ask committee members to put themselves in the shoes of those asylum seekers in the U.S. for a moment. Imagine if the president of the country that you are trying to seek refuge in says you are a bad person because of where your country of origin is. How would you feel? Would you feel that you would be treated fairly? I suspect that if we were honest with ourselves, we would say no.

On January 11, 2017, Canadians saw stories about Seidu Mohammed, a 24-year-old refugee who nearly died making the dangerous journey from the U.S. to Canada, crossing into Manitoba on Christmas Eve. Born in Ghana, he fled from there out of fear for his life due to his sexual orientation. He had hoped to rebuild his life in the United States. As committee members may already know, homosexuality is illegal in Ghana. It is punished under a section of criminal code titled, "Unnatural Carnal Knowledge". A 2012 U.S. department human rights report also pointed to widespread discrimination, police harassment, extortion attempts, as well as citing several instances of violent mob-style assaults being carried out against suspected homosexuals.

Seidu Mohammed made an asylum claim in the U.S. after arriving in San Diego in 2015. He then spent a year in a detention centre. While in the detention centre, he lacked access to legal counsel, and lacked the freedom to gather materials to support his case. As the Harvard report I will speak to soon found, this is all too common.

Ultimately, his claim was rejected. He then headed north, meeting another Ghanaian man in Minneapolis, Minnesota. The men took a bus from there to Grand Forks, North Dakota, and then a \$400 cab ride took them to a spot near the border. The men then embarked on the most dangerous part of their trip. They walked for at least seven hours, at times through waist-deep snow in -18° weather, trying to cross into Canada and were poorly equipped for the conditions. After failed attempts at hitchhiking for hours, a truck stopped and called 911. Mr. Mohammed ended up having all of his fingers amputated as a result of the extreme frostbite he suffered during the walk across the border. Despite that, he said, "The journey was worth it. I'm happy here. To go back, I lose my life".

On February 8, 2017, we heard the heart-wrenching story of the two-year-old making the trip from Minnesota into Manitoba as part of a group of 20 individuals. It was reported that, in the -20° weather, the tired and ill-equipped child said to his mother, "Mom, I want to die, you can go in the Canada. I want to die in the snow, you can go, mom, in the Canada."

• (1615)

On February 22, 2017, the story of Naimo Ahmed was told by the CBC. Ahmed, 23, is part of a minority group originally from southern Somalia. She was sent to be married in July, but community members were against the union because her would-be husband was not a member of her group. On the day of her wedding, a group of armed individuals came to her mother's house and murdered her mother, husband, and other members of her family. Ahmed spent her wedding day, and many more following that, fleeing and hoping to rebuild her life in safety.

After travelling from Somalia to Ecuador, Colombia, and Costa Rica, she eventually made her way to Texas, where she was detained and was transported to Minneapolis to await her asylum hearing. Fearing the Trump administration's discriminatory policies toward people like her from Somalia, Ahmed believed she had no choice but to make the trip to Canada instead. She stated:

I am black. I am Somali. I am a Muslim—the three things the president doesn't like....

To him, I am a terrorist. But I am not. I don't want to harm anyone; that's the last thing I want to do. All I am looking for is protection.

These are just some of the stories of people who feel they have no choice but to make the journey from the U.S. to Canada because they don't feel they have a chance at a fair hearing to obtain asylum and safety. In addition to the political and social upheaval that continues in Somalia, which has cost countless Somalis to flee, Somalia is once again facing a severe drought. For those whose country of origin is Somalia, the UN has estimated that some 363,000 children are acutely malnourished, with 270,000 more at risk in 2017. They further stated that there is only a two-month window to avert a drought catastrophe.

We need to be very clear when we're talking about the individuals abandoning claims in the United States to come to Canada. They have already fled serious and possibly life-threatening situations in the hope that they could find safety. With the current situation in the U.S., their fears that they do not have access to a fair and just set of procedures are not unfounded.

On January 30, 2017, Amnesty International wrote an open letter to Minister Hussen, as well as the Prime Minister and Minister Freeland, urging the Canadian government to immediately suspend the destination of the United States as a safe third country. In that letter, Amnesty International quite clearly states:

What has become clear is that all of the developments involve dramatic measures that blatantly violate numerous international refugee and human rights legal obligations, including under the 1951 Refugee Convention and its 1967 Protocol, the International Covenant on Civil and Political Rights and the Convention against Torture. Most directly, crucial principles with respect to non-discrimination, non-refoulement, arbitrary arrest and imprisonment, fair trials and the rights of children have already been infringed.

We are strongly of the view that in this context Canada cannot wait to see how things continue to develop in the days and weeks to come.

While the original discriminatory executive orders this letter responded to were struck down by the courts, Amnesty International had the foresight to know it was unlikely that those would be the only ones attempted. They stated, "There is every reason to believe there may be further changes, including through additional Executive Orders."

We know that some of the original discriminatory executive orders have remained in force, that additional anti-immigrant executive orders have been signed, and that a second travel ban has been attempted. Over this time period, we also know that irregular border crossings from the U.S. into Canada have sharply increased. Amnesty International recently undertook an observational fact-finding mission at the Canada-U.S. border in Manitoba. Two researchers were sent to the border crossings to interview refugee claimants who had recently made the dangerous journey in frigid temperatures in order to bypass the safe third country agreement and be eligible to make an asylum claim in Canada.

During these interviews, Amnesty researchers found the following key observations.

First, the notion of abandoned dreams of freedom in the United States. Upon arriving in the U.S., individuals interviewed said their original feelings of optimism about finding freedom and safety there were replaced by feelings of vulnerability and lack of protection. This was not just through the direct policy actions undertaken by the Trump administration, but by the change in public atmosphere ushered in by the rhetoric and climate he had created.

● (1620)

Second was with regard to concerns about arbitrary immigration actions. Individuals interviewed from Somalia explained that while they made their asylum claim prior to the Trump administration, their hearings had been cancelled without explanation, and in some cases not rescheduled. They were unable to find any reassurance, including from their legal counsel, in the cases where they could obtain it, that their claims would be heard. This led to feelings of fear that additional actions could further impact their ability to have their claims heard.

Third is immigration detention. Widespread and unjustified immigration detention has been well documented in the United States for decades, and the Trump administration has expanded it. Several of the individuals interviewed explained that they were detained upon arrival and throughout the duration of their asylum claim process. As explained by the Harvard report, individuals under this detention are far less likely to have access to legal counsel or consultation, and are also far less likely to be able to make a successful asylum claim as a result.

It was clear to the Amnesty researchers that individuals, including children, were detained in the United States who simply would not have been detained in Canada, and that this was in clear violation of international legal standards and obligations governing the detention of refugees and migrants.

Fourth, with respect to claims being rejected, as explained at length by the Harvard report, well-founded asylum claims are often similarly rejected in the United States. This is, in large part, due to the obstacles faced by claimants held in detention in preparing their cases. In a troubling example of this, an individual interviewed by Amnesty made an asylum claim in the U.S. based on his sexual orientation. He was held in detention, and his claim was rejected. He was able to raise funds to obtain a bond to be released from detention, and then made a dangerous trip, crossing irregularly into Canada. That individual's claim was recently heard by the Immigration and Refugee Board, and was so clear that he immediately received a positive decision on his claim at the completion of the hearing.

Mr. Chair, had that individual not made a dangerous trip to Canada, he would have been deported and his life would have been put in real danger. With the safe third country agreement in effect, Canada would have been complicit in that man's peril.

Fifth was on increased immigration raids. Many of the individuals interviewed spoke of recently experiencing a significant increase in immigration raids, and this was most frequently Somali asylum seekers. They spoke of friends and neighbours being suddenly arrested and detained when reporting for regular immigration appointments, as well as raids occurring at workplaces and apartment complexes.

This was considered a key factor for individuals in making the decisions to undertake the dangerous trip to Canada. There were many media reports, in February alone, that pointed to significant raids taking place, and what appeared to be a shift away from targeting only those with criminal records, to targeting anyone. Many of the reports spoke to the fear that is now gripping immigrant communities that perhaps the Trump administration will move forward with his, or at least once promised, “deportation force”.

Sixth, regarding exploitation and danger at the border, due to the nature of the journey for asylum claimants being able to make a claim in Canada because of the safe third country agreement, asylum claimants are not only vulnerable to the harsh weather conditions, but are also vulnerable to exploitation from so-called consultants and agents who charge significant sums of money to get them near the border. Amnesty concluded this fact-finding mission by once again advocating that Canada suspend the safe third country agreement. At minimum, they call for invoking article 10 of the agreement, which allows for the agreement to be suspended for three months.

Mr. Chair, Amnesty International is concerned enough with the current state of asylum seekers crossing the border that they felt obligated to get people on the ground, to try to better understand what is happening on the ground. Despite what the Minister of Immigration seems to try to claim, that nothing has changed, it is important to know that many people, including experts, disagree with that sentiment. Once more, it's becoming evident that the people in the asylum system know what it feels like. To them on the ground, it's as clear as day that the climate has changed in the U.S. and that is a big part of the motivation behind their journey.

● (1625)

For those who claim there has been no change, let's look at some of the official figures. For January and February alone, a total of 1,134 individuals were intercepted by the RCMP at irregular crossings. If this trend continues, we could expect over 6,800 people to make these types of asylum claims in 2017. To put that in context, for all of 2016 in those regions, a total of 2,464 individuals were apprehended by the RCMP. That's a pace for almost tripling the number of asylum seekers crossing irregularly at the Canada-U.S. border.

Many of the media reports, such as the ones I previously cited, detail the number of hours asylum seekers have been trekking through the snow and the frigid temperatures of often around -20°. Despite these conditions, and despite many of these people being ill-prepared to deal with the conditions, the journey is being undertaken at even great risk. That means the pace could increase, and you could see even higher levels of asylum seekers crossing in this fashion than the current trend suggests.

It is important, however, to keep these numbers in the context of the overall immigration figures and historical records. Refugee numbers this year are approximately 13% of our overall immigration levels plan. In the past Canada has resettled higher numbers than currently targeted. The most notable example would be the successful resettlement of the boat people from Vietnam, and this will remain the case even with these elevated asylum claims. This is not a disaster or an unmanageable situation. It is simply a situation that requires management.

Many individuals and organizations have voiced concerns that once the weather gets nicer more people will attempt the journey. While the weather may be warming up and the snow melting, the next season in the Prairies might be more dangerous than the winter. In the Prairies, with spring thaw comes the flood season. I would imagine that many would-be asylum seekers are unfamiliar with the risks associated with travelling through Prairie fields during this time. If we do nothing, we risk being caught flat-footed in the event a real problem arises.

We need to properly prepare for the impact of Trump's discriminatory immigration policies. Everyone wants the situation to be handled properly, and I think this includes committee members from all sides. As well, resettlement organizations servicing those communities have been stretched thin by the big promises of the government around increased refugee targets, but the inadequate funding of services.

My office spoke with Greg Janzen, the reeve of Emerson, Manitoba, and he tells us that crossings no longer come just on weekend nights. They're starting to occur on a nightly basis. Temporary shelter for individuals is also becoming a problem. He notes that Emerson is a town of just over 600 people, and they've had over 300 people cross into town since February 3. The CBSA centre is full. The local Salvation Army is full. He's concerned that if these trends continue or increase they would need to set up something like a tent city for people. They're now doing cross-border preparations with the neighbouring American towns for first responders to be ready and equipped to do water rescues. They're concerned it will be difficult because the asylum crossers are always coming over at night.

It is unfair, Mr. Chair, for Canadians in border communities to bear the burden of this alone. Community members are being wakened in the middle of the night by asylum seekers looking for shelter or aid. Media reports have shown residents of Emerson, Manitoba, engaging in some truly inspiring work to help these asylum seekers in their time of need. I think all Canadians should be proud of that. But at the same time, this is a lot to ask of people. If we fully anticipate that this situation will continue, shouldn't we try to figure out how best to mitigate the impact and manage the situation? After all, isn't it just common sense?

The RCMP needs to be adequately resourced to respond to this increased activity, and so does the CBSA. The Immigration and Refugee Board also needs to be adequately funded to hear and make determinations on these cases in a timely manner, especially given the statutory time frames and the outstanding legacy claims.

● (1630)

Mario Dion, IRB chair, stated in the 2016-17 report on plans and priorities, part III:

The IRB had reallocated available internal funding to reduce the backlog of legacy cases from 32,000 to 6,500 since the coming into force of the new refugee determination system. In 2016-17, the Board's ability to reallocate funding internally will be severely limited, particularly if the Board is faced with sustained increases in intake at the RPD. As a result, commitments made by the Board in relation to refugee protection claims that are not subject to statutory time frames, such as the remaining 6,500 legacy claims, will have to be revisited unless additional temporary funding is made available.

I was truly disappointed when the minister appeared before us here recently and said that there would be no additional funds allocated to the IRB to allow them to process the legacy claims. All the efficiencies in the world can't make up for a lack of funding. If the IRB is spending more of its time and resources dealing with the time-limited, imposed new cases stemming from these asylum seekers, the lives of those with legacy claims continue to remain in limbo. Once more, budget 2017 does not provide additional resources to the IRB to clear these legacy cases.

If we don't prepare for the possibility of additional pressure being put on the IRB, then we are knowingly putting in question the integrity of our immigration and refugee system. That's shameful. In addition, the current situation can have far-reaching impacts in the larger context, if we don't adequately respond to what's happening.

In my view, it is no coincidence that the spike in asylum claims of this nature have increased since the Trump administration came into power. The anti-immigrant rhetoric and policies attempted thus far have had an impact on vulnerable immigrant communities and have also emboldened some troubling fringe voices in our communities to attempt to incite fear and hatred of immigrants.

On March 25, in my riding, I was speaking at a rally for the International Day for the Elimination of Racial Discrimination. The rally was interrupted by members of the Soldiers of Odin, who attempted to disrupt the event and intimidate people who attended. A smoke bomb was set off and several people were arrested.

As we recently saw with motion M-103, the ability for certain online groups to start misinformation campaigns based on fearmongering are more pervasive than ever. We are already seeing articles and Internet campaigns disparaging these asylum seekers as somehow queue-jumping over other refugees or even somehow that they are having to queue-jump over family or economic-class immigrants.

The longer the government refuses to acknowledge anything is happening, the worse this gets. It undermines the confidence Canadians will have in our immigration system. While the increase in populist and nationalist rhetoric, often with anti-immigrant undertones, has been less prevalent here in Canada than in many other nations, we are not immune to it. The best way to prevent those divisive messages from taking root is to put in work to ensure Canadians have the utmost faith in our systems. We ignore these issues at our own peril.

Additionally, as we saw with the controversy surrounding M-103 and have seen even more clearly in other western countries, there is a growing amount of fearmongering and growth in fringe voices promoting rather alarming anti-immigration positions. Canada has thus far been one of the least impacted by that trend, in my opinion. However, we can't assume that will continue if we, as government, aren't continuing to show Canadians that our immigration and refugee system is among the best in the world and can absolutely be trusted by Canadians.

Canadians need to believe that our system has world-class integrity. If we ignore these trends and they continue, we risk undermining the current trust in our system that most Canadians have.

●(1635)

To be sure, inland refugee claims are nothing new, as members of this committee know. These individuals aren't queue-jumping, they are making an inland application. They aren't somehow evading the law, as the reports state, because they are apprehended by the RCMP and turned over to the CBSA, as per standard procedure. What is different is that they are forced to risk life and limb to get to safety at unsanctioned border crossings.

Canadians expect better from their government. Our international partners expect more of us regarding our international and humanitarian obligations. Canada is a signatory on the 1951 Refugee Convention, its 1967 protocol, the International Covenant on Civil and Political Rights, and the Convention against Torture. We have international obligations under these conventions around the treatment of and protections for asylum seekers.

While the safe third country agreement remains in effect, it is the opinion of many groups that Canada is failing to meet these obligations. The agreement forces asylum seekers to undertake the dangerous trip to Canada. People are not crossing because it's fun; they're crossing because they don't have any other choice.

The minister has attempted to say that suspending the safe third country agreement would create disorder. I could not disagree more with that statement. There is nothing orderly about individuals losing fingers to frostbite after spending seven hours walking through waist-deep snow in farmers' fields. There's nothing orderly about Canadians being awakened in the middle of the night to an asylum seeker looking for emergency shelter. There is nothing orderly about a toddler telling his mother to go on and let him die in the snow. None of this is normal; none of this is orderly.

What is disorderly is the current situation, the current do-nothing approach. I've said it for months now, but the longer we do nothing in the face of the changing realities on the ground brought about by the Trump administration in regard to their discriminatory anti-immigration measures, the more complicit we are. At this point, I'm stuck wondering what it will finally take to spur action. Does someone have to die making this trip for us to do something? We need to do the work before tragedy occurs, not after.

Let's hear from groups like Amnesty International, the Canadian Civil Liberties Association, the Muslim Association of Canada, the authors of the Harvard report, the 200 law students who spearheaded the research-a-thon, the NGOs on the ground, the RCMP, CBSA, and those who are directly impacted. Let's get a handle on what's happening on the ground. Let's understand why the numbers are increasing. Let's understand what these border communities need to do better to handle these situations.

Ipsos Reid CEO Darrell Bricker explained Canadians' views quite succinctly when he said:

Regardless of your views of immigration in general, there's an overall perspective among Canadians that rules must make sense, and they must be followed.

I ask the members of this committee to support my motion so that we can ensure that the rules in place do in fact make sense to meet the needs of current realities and for Canada to take action that matches the words of the Prime Minister #WelcomeToCanada.

●(1640)

The Chair: Thank you, Ms. Kwan.

Ms. Rempel.

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

To my colleagues in this room, oftentimes I think that when we get into parliamentary committees we can get into this sort of routine of witness testimony and what we've put together in committee business, but then something happens and that something can precipitate some very important work in parliamentary committees. I think that is at the heart of this motion today, which is why I speak in favour of it.

We're at a confluence of issues right now when it comes to refugee policy in Canada. We've seen the intake of tens of thousands of Syrian refugees in a very short period of time. We've seen a fundamental change to the immigration levels with regard to the intake of refugees. We are seeing a humanitarian crisis with regard to the migrant crisis in the Middle East, and there are some very weighty and serious questions related to Canada's role, which are not easy questions. They're easy questions to politicize, but they're not easy questions to answer.

These include things like how many refugees should Canada take in each year in terms of how much it costs us to actually provide proper integration programming to give people language skills and affordable housing so that the Canadian public can have long-term social licence to sustain high levels of refugees in such a way that refugees have a successful experience when they come here to Canada? That's not an easy question to answer. It's one that has been fastidiously avoided in this government over the last 18 months.

Now we have the issue of increased illegal border crossings, specifically along the Manitoba-U.S. border as well as at the Quebec-Vermont border. My colleague Ms. Kwan extrapolated the number as being 6,800 this year based on current figures. We have no idea what that's going to look like, because we've already heard claims of basically gang-related smuggling groups starting to organize. We don't know if that's going to mean human trafficking. We actually don't know anything.

Yet when we ask what the government's approach has been to this.... For me, this is not about partisanship. It's just that "wait and see" is not going to cut it on this issue for several reasons. First of all, if we are going to see an increased level of migrants coming through this border, what is the government going to do to support them when they get here? Are they part of the immigration levels? Have they already been thought about in that context? How does this impact processing for other streams of immigration claims? What does that mean for wait times and the whole issue of the safe third country agreement?

We have Ms. Kwan arguing very passionately and groups of people across the country arguing very passionately that we should suspend that, yet we have other people who are arguing or saying there are legal ways to come into the country. The illegal land-crossing component is a loophole or an oversight in that agreement. Perhaps we should seek, with the United States, to try to close that, because it's not in the best interests of our country. Who are we

allowing into the country and under what circumstances? What does this mean for families along the border areas that are having refugees and illegal border-crossers coming and knocking on their doors?

Why hasn't the Prime Minister or the immigration minister called this for what it is? It is illegal and it's unsafe. Why hasn't the government said it is unsafe to do this, and not to do this? Why are we seeing romanticized pictures of people crossing fields in -30° weather? These are all issues that should be of import to a parliamentary committee.

I also want to look at some statistical factual data. My colleague has talked about the fact that many of these border crossings could be precipitated by the Trump administration. I'd like to see some quantitative evidence. Is the American system still working? Even though we've seen a change in the administration in the U.S., does the asylum claim system still function at an arm's-length, proper perspective? What do Canadian legal experts think of this? Is there evidence to show it is not working such that the safe third country agreement should be suspended, or should we be looking at an alternative approach there?

How much of an increase in resources does the RCMP or the CBSA need to deal with this? What sort of intelligence is the CBSA hearing in terms of how many more people we expect to see over the next year? Are we doing anything to deter this? How are we managing this? What sort of resources are we providing to Canadian families who are having to deal with this issue? What about the safety issues? I remember reading an article that was, I think, in the *Winnipeg Free Press* that talked about families who had been very surprised and very frightened to have people knocking at their doors in the middle of the night.

●(1645)

My colleague talks about it being very disorderly. I agree with her. This is not the right way to be doing things.

We have some serious, fundamentally difficult questions to discuss in terms of how, whether, and why Canada should maintain its high processing levels of refugee claims. That is exacerbated by the fact that we are seeing hundreds, and most likely thousands, of illegal border crossings in this country this year.

I just don't understand why the government has taken this "go along to get along" approach, because you're seeing colleagues from two very different ends of the political spectrum say we have a problem here and the problem is that we can't just go along to get along. We have to answer some tough questions in order for Canadians to avoid the populist rhetoric that Ms. Kwan mentioned. I agree with her.

The way we avoid that is by tackling these issues head-on, not by talking points in the House of Commons on this particular issue that say, "There's nothing to see here, folks."

I just implore you. This committee can do something that resembles work by voting in favour of this motion. If the committee votes in favour of this, we will have done something that will be of benefit to this country.

By providing some recommendations across all party lines for the government to look at, I think Ms. Kwan has done a very good job of writing a very non-partisan, very open-ended motion that doesn't put the government in any sort of derogatory light. I really don't see any reason that the government would not support this motion.

With that, my comments are complete. I would certainly implore my colleagues to vote in favour of this motion.

The Chair: Thank you, Ms. Rempel.

Mr. Tilson.

Mr. David Tilson: Mr. Chairman, I was going to make some comments, but I understand that bells are about to ring. Therefore, I too would ask for a vote.

•(1650)

The Chair: Okay. I'm calling a vote—

Sorry, Ms. Dzerowicz, you're on the speaking list.

Ms. Julie Dzerowicz: Mr. Chair, as we have witnesses before us, I move that debate be now adjourned.

The Chair: Thank you.

Mr. David Tilson: I request a recorded vote.

(Motion agreed to: yeas 5; nays 4)

The Chair: As the motion has been agreed to, the debate is adjourned. We now invite the witnesses from the ICCRC to come forward.

I welcome the second panel for today's hearing. They are from the Immigration Consultants of Canada Regulatory Council. Once again, we have before us Mr. Lawrence Barker, who is the acting president and chief executive officer; Mr. Christopher Daw, who is the chair of the board of directors; and Ms. Hafeeza Bassirullah, who is the director of education.

There's no opening statement.

Ms. Dzerowicz, you have seven minutes, please.

Ms. Julie Dzerowicz: Thank you, Mr. Chair.

Thank you again to the witnesses for appearing again before the committee. We appreciate it, and thanks for your patience today.

I have a series of questions. They seem to be a bit all over the place, so I hope you'll forgive me. We're nearing the end of this study, and I think we've been hearing some contradictory things and some different ideas.

I don't want a long explanation, because I only have seven minutes and a lot of questions. You can follow up with more direct stuff. In order to become an immigration consultant and register with the ICCRC, are there any minimal educational requirements?

Also, is there a need for an upgrade, and how often?

Ms. Hafeeza Bassirullah (Director of Education, Immigration Consultants of Canada Regulatory Council): To become an immigration consultant, an individual must first complete an education program. There are accredited education providers that are accredited by the board, and we have strengthened and modernized the education program that was implemented by the

previous regulatory body. That program was 180 instructional hours in length. We've increased that to 500 hours. We are seeing the first cohorts of the program currently.

We also have a licensing exam, and the exam is overseen by experts in the testing and measurement industry. They make sure that we abide by the international standards and best practices.

Ms. Julie Dzerowicz: So every single person who's registered has to go through this...?

Ms. Hafeeza Bassirullah: That's correct.

Ms. Julie Dzerowicz: Okay.

What education is done to ensure the public is aware and educated around immigration consultants, what their role is, and who's legal and who's not, here in Canada? Is it offered in multiple languages? What kind of education campaign exists right now?

The Chair: It appears that the bells have started. I'll pause for a moment. The committee can agree to continue, probably for another 10 minutes.

Hon. Michelle Rempel: I'm fine with that.

The Chair: Is there unanimous consent?

An hon. member: Yes.

The Chair: Okay, thank you.

Please continue.

Ms. Julie Dzerowicz: Could someone answer the question, please?

•(1655)

Mr. Lawrence Barker (Acting President and Chief Executive Officer, Registrar, Immigration Consultants of Canada Regulatory Council): As part of Fraud Prevention Month we issue a number of videos in multiple languages. This year, for March 2017, they were issued on social media in English, French, Spanish, Arabic, Mandarin, and Hindi.

In response to questions, the last time we appeared before the committee concerning members of the public being aware of filing complaints, we have actually responded to that. I'm pleased to announce that in the time since we were last here, our communications department has produced a video that is now available on Facebook, and as of last Friday it has received 50,000 views. It talks about how members of the public using immigration services can file a complaint if they're dissatisfied with their consultant.

Ms. Julie Dzerowicz: In terms of just general public education around immigration consultants, is that done abroad? Often now we're starting to educate about our immigration process at the different embassies, so it helps to facilitate those who want to immigrate to Canada through our system.

Have you done a little bit of that through our embassies or has that been thought of?

Mr. Lawrence Barker: Not specifically through the embassies, but we do produce awareness advertising in local ethnic papers. We are also contemplating an expanded advertising campaign that will be part of next year's fiscal budgeting, which is being put together right now.

Ms. Julie Dzerowicz: I have a last question, and then I'm going to cede to my colleague, Mr. Anandasangaree.

I want to look at the root cause of why immigration consultants are even needed. I often ask this question, because as we're debating whether we need immigration consultants or whether we should just leave it all with lawyers, in my head I think, why can't people just know that they can apply online for a temporary foreign worker application or for a visa?

Mr. Daw, you've been an immigration consultant for a number of years. Is the system just still too complicated, and is that the number one reason that people are using immigration consultants?

I'd like to get to the root of why people are using immigration consultants, and to be honest, I'd like to eliminate as much as I can and get people to just use the system so that there's less need for immigration consultants.

Mr. Christopher Daw (Chair of the Board of Directors, Immigration Consultants of Canada Regulatory Council): I often tell potential clients that filing an immigration application is a lot like doing your taxes. The information is all out there on websites, in regulations, in law, but trying to make sense of it in terms of your own personal situation is not always easy.

Ms. Julie Dzerowicz: Is that the number one reason? Is it just too complicated for them?

Mr. Christopher Daw: Many people just want someone to handle it for them.

Ms. Julie Dzerowicz: Okay, and it's because they're scared they might make a mistake.

Mr. Christopher Daw: Or they don't have the time or the expertise or feel they have the capability to do it.

Ms. Julie Dzerowicz: But is it because people who are coming to Canada feel that the only way they can get through the system is if they hire someone?

Mr. Christopher Daw: I can't speak to the reason why everybody would need to hire someone. I can tell you from conversations I've had with clients in my office that it's usually a combination of confusion around the rules, the complexity of the system, and the many different categories and the way they all interrelate to go from visitor to student to worker.

Ms. Julie Dzerowicz: I'm also assuming it's the language, the availability only in English and French.

Mr. Christopher Daw: That could be part of it as well. It would depend on your client base.

Ms. Julie Dzerowicz: I'm going to move over to Mr. Anandasangaree.

The Chair: Thank you, Ms. Dzerowicz.

Mr. Gary Anandasangaree (Scarborough—Rouge Park, Lib.): I know we've had a conversation previously, but what basic competence is required for somebody to bring forward a client to the Immigration and Refugee Board as a refugee claimant?

Ms. Hafeeza Bassirullah: We've increased the competencies in our national education manual. We've added competencies on administrative law as well as tribunals. One of the considerations that we are undertaking right now.... We've listened to the IRB.

We've had meetings with the IRB, and you have heard what they've said as well about immigration consultants. We are hoping to work with them to determine what the needs are and further the education of RCICs so that those individuals appearing in front of a tribunal are competent enough to do so.

The Chair: Ms. Rempel, you have five minutes.

Hon. Michelle Rempel: Thank you for appearing before us today.

We've had many witnesses essentially speak to the dysfunction of your organization. I'll be blunt. I think it's given great concern to all members of this committee across party lines. With the time I have I want to express deep concern with the response to the letter from our chair with regard to the resolution that was passed at your board. One section of this resolution suggested that one or your members, your directors, would not communicate or make any statements to the media or elected officials that concern or are related to the corporation. In his letter our chair outlined our committee's concerns about the impact of that on parliamentary privilege.

When I read your response, and when I noted that you suggested this was an editing oversight, I found the timing quite suspicious and I thought this was very weak sauce. Moreover, as I read through the rest of this and read things you decided to include in your content like a line that says, "Mr. Dean fails to recognize properly elected or appointed directors etc." and "In all correspondence, he refers to the Chair as 'Mr. Fake Chair'".

I and all my colleagues get a lot of stuff to read, and we find this issue very serious in its impact on our immigration system. When I get eight pages full of garbage like this, I'll be honest with you, it's deeply disappointing. I don't want to hear he-said-she-said in a correspondence with committee members. I think it weakens your case. How did you think this level of juvenile writing was going to be of any impact or import on a very weighty matter that is before a parliamentary committee? Do you think this was respectful of our committee members' time here?

• (1700)

Mr. Christopher Daw: This has been a very challenging issue for us to deal with as a board, and we tried to provide insight to the committee in an honest way about how the resolution was put together. It is one where the timing of the resolution overlapped with the timing of this committee as things escalated within our board during the time leading up to the start of this committee in early March. The statements we were referring to were not the statements he made here at the committee.

Hon. Michelle Rempel: We have to go to vote. I'm going to leave with this. We have some serious allegations and testimony before this committee, and not just from this particular board of directors' member, but from the broader community in the efficacy of your organization to be able to address these challenges. For the remainder of this study I would ask that you and your board of

directors have a serious think about what you're communicating to this committee in your role in this very important process to Canadians because this is not going to cut it. Thank you.

The Chair: Thank you, Ms. Rempel.

The meeting is adjourned.

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