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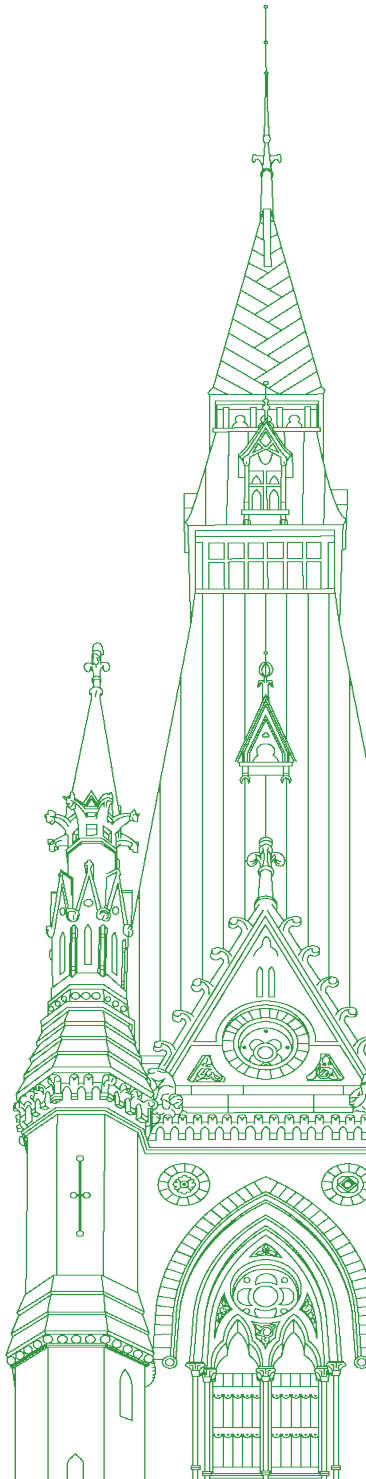

Chair: Mr. Ali Ehsassi

Standing Committee on Foreign Affairs and International Development

Thursday, March 30, 2023

● (1145)

[*English*]

The Chair (Mr. Ali Ehsassi (Willowdale, Lib.)): Welcome to meeting number 57 of the Standing Committee on Foreign Affairs and International Development.

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

I'd like to make a few comments for the benefit of the members and the witnesses. Please wait until I recognize you by name before speaking. For those participating by video conference, click on the microphone icon to activate your mike and please mute yourselves when you are not speaking. Interpretation for those on Zoom is at the bottom of your screens, and you have a choice of the floor, English or French. For those in the room, you can use the earpiece and select the desired channel.

In accordance with our routine motion, I am informing the committee that all witnesses have completed the required initial connection tests in advance of our meeting.

Pursuant to the order of reference of Wednesday, November 16, 2022, the committee resumes consideration of Bill C-281, an act to amend the Department of Foreign Affairs Trade and Development Act, the Justice for Victims of Corrupt Foreign Officials Act, the Broadcasting Act and the Prohibiting Cluster Munitions Act.

Because we had a vote, we've moved the panels around a bit. For the first panel, we will hear from witnesses until 12:30, and our second panel will go from 12:30 until 1:15.

Before introducing our panellists, I should point out that we were just advised by Professor Turp that he will be leaving us at 12:15, so to the extent that you have questions of him, please try to make sure that it happens as soon as possible.

It's my great pleasure to welcome to the committee, as an individual, Professor Daniel Turp, faculty of law, Université de Montréal. Also, from the Canada Tibet Committee, we have Sherap Therchin, who is the executive director, and he is here in person. Last but certainly not least, we're also hearing from Hong Kong Watch, and we have the pleasure of having with us Ms. Katherine Leung, who is a policy adviser.

Each of you will be provided five minutes for your opening remarks, after which we will allow the members to ask you questions.

When you're getting very close to the five-minute mark or when members are questioning you and the time is out, I will put this up. I'd appreciate it if each one of the witnesses tried to wrap up their comments as soon as possible after.

Given the schedule of our witnesses, we will start with Professor Turp.

Professor Turp, you have five minutes for your opening remarks.

[*Translation*]

Mr. Daniel Turp (Emeritus Professor, Faculty of Law, Université de Montréal, As an Individual): Thank you, Mr. Chair.

Members of Parliament, Madam Clerk, I would like to begin by greeting the members of the Standing Committee on Foreign Affairs and International Development and expressing my pleasure at appearing again before a committee of the House of Commons, where I actually had the privilege of serving as the member of Parliament for Beauharnois-Salaberry during the 36th Parliament, from 1997 to 2000.

I am here in response to the invitation to appear, sent to me by your clerk, on Bill C-281. As you said, Mr. Chair, I will unfortunately have to leave you quickly because I have a commitment that I want to honour, like any member, or former member, who wants to keep their word.

In the brief time I have, in those five minutes, I will comment on one clause of the bill, the one that proposes that the Department of Foreign Affairs, Trade and Development Act be amended.

I also want to say that I agree with the other three clauses of Bill C-281 that propose to amend the three other acts mentioned in the bill. So it is clause 2 of the bill that I am particularly interested in, the one that seeks to amend section 10 of the Department of Foreign Affairs, Trade and Development Act by adding subsection 10(4).

You will recall that this section provides that, in exercising his or her powers, duties and functions under the act in respect of the conduct of the external affairs of Canada, the minister is to publish, at least once in every calendar year: a report that outlines the measures taken to advance human rights internationally as part of Canada’s foreign policy; and a list that sets out the names and circumstances of the prisoners of conscience detained worldwide on whose release the Government of Canada is actively working.

First of all, I fully agree with the proposal to create a requirement for the Minister of Foreign Affairs to publish a report on the advancement of human rights around the world. In fact, Canada would not be the first country to publish such a report. The United States of America has been doing so for almost 50 years. Its latest report was released just a few days ago, on March 20. It is a report broken down by country, which includes comments on Canada and the situation of human rights in Canada. Such reports are also published by the Office of the United Nations High Commissioner for Human Rights and by a number of non-governmental organizations, most notably Amnesty International and Human Rights Watch.

In my view, the publication of such a report would provide an additional source of information on the state of human rights around the world, within the international community and across states, from a Canadian perspective, and would contribute to a better understanding of the state of human rights around the world.

On the subject of prisoners of conscience and the proposed list to be published, I would first suggest that you define the concept of "prisoners of conscience". Amnesty International's definition might serve as inspiration:

> Amnesty International considers a Prisoner of Conscience (POC) to be any person imprisoned or otherwise physically restricted (like house arrest), solely because of his/her political, religious or other conscientiously held beliefs, their ethnic origin, sex, color, language, national or social origin, economic status, birth, sexual orientation or other status, and who has not used violence or advocated violence or hatred.

I have a second and final point to make.

With respect to the list, I agree with the idea expressed during the review of Bill C-281, in particular the idea expressed by MP Christine Normandin, that exceptions should be allowed and names omitted from the list, and that mechanisms should be developed to do so because of the possible security breach for prisoners that could result from such publication.

Members of Parliament, Mr. Chair, these are a few observations. I hope they will be useful.

I wish you good deliberations. I regret that I won't be able to be with you for a longer period of time. I hope that Bill C-281 will be passed.

● (1150)

[*English*]

The Chair: Thank you, Mr. Turp.

We next go to....

Yes, Mr. Zuberi.

Mr. Sameer Zuberi (Pierrefonds—Dollard, Lib.): On a point of information, Mr. Chair, I'm flabbergasted that we've starting the meeting when we just voted. This is unprecedented. We just finished a vote in the House of Commons, and we started a committee meeting moments after. We didn't even have time to walk to the committee room.

The Chair: We did have a quorum, and it was the will of the committee members who were here to get started given the time restraints we're facing—

Mr. Sameer Zuberi: This has never happened before.

The Chair: Your point is well taken.

Mr. Sameer Zuberi: This has never happened before. I'm going to channel my inner Garnett: I just hope that this will never happen again.

I hope the vice-chair, Mr. Genuis, is there. I'm going to channel my inner Garnett and ask that this not happen again.

Thank you.

The Chair: Your point is well taken. Thank you, Mr. Zuberi.

Now we will proceed with our second witness.

Mr. Therchin, you have five minutes for your opening remarks.

Mr. Sherap Therchin (Executive Director, Canada Tibet Committee): Thank you, Mr. Chair.

Thank you, honourable members of the committee, for inviting me to testify before this esteemed committee.

I would like to use this opportunity to speak of the arbitrary detention, torture and killings in Tibet. I would like to start by sharing the stories of some Tibetans who were detained, tortured and killed in recent years.

In July 2022, a 56-year-old Tibetan monk, Jigme Gyatso, died after a prolonged illness: multiple organ failure caused by the torture and inhumane treatment he endured in the prison. He was detained several times over a period of 15 years. The first time he was detained was in 2006, when he returned to Tibet after attending the teachings of His Holiness the Dalai Lama in India. He was detained for the second time in 2008, around the time when there were protests in Tibet during the 2008 Beijing Olympics. When he was detained for the second time, he was waiting near his monastery to repair his shoes.

Although he had not taken part in the 2008 Beijing Olympics protest, he was still detained based on his past history of being detained. After his release, Jigme created a video testimony providing a first-hand account of the torture he endured. In the video, Jigme reveals what he had told the Chinese police forces before his release. I quote: "If you kill me, then that will be the end of it. But if am able to leave and get the opportunity, I will speak about the torture I endured. I will bear witness as a truthful voice to the sufferings of my friends and report these events to the media."

Likewise, in February 2021, a Tibetan tour guide named Kunchok Jinpa died in a hospital three months after being transferred from prison without the knowledge of his family. He was serving a 21-year prison sentence for sharing information with the outside world through the foreign media about a local environmental protest. The local sources said that he had a brain hemorrhage and body paralysis.

In the same year, a 19-year-old Tibetan monk, Tenzin Nyima, died after being released from prison in a comatose state. Tenzin was arrested, along with four other monks, for their peaceful demonstration near the local police authorities while demanding Tibetan independence. He was released in 2020, but was rearrested the same year for allegedly sharing the news of his arrest with Tibetans in exile.

In 2020, a 36-year-old mother, Lhamo, died, again shortly after being transferred to hospital from police custody. She was detained on the charge of sending money to her family in exile in India. Her body was immediately cremated, preventing any further investigation of her case.

Mr. Chair, there are many other Tibetan prisoners who died in prison or shortly after being released or transferred from prison. They were not terrorists and they were not separatists, nor were they dangerous to the state's security, as China accused them of being. They were mothers. They were entrepreneurs. They were tour guides. They were monks. They were singers who had dreams about leading a dignified life as Tibetans in their own lands.

Mr. Chair, what binds this story together is how they didn't have access to lawyers, how they didn't have access to their families while being detained, how none of them had an opportunity for a fair trial, how they were tortured and discriminated against just because they were Tibetans, and how none of their cases so far have been investigated and none of the perpetrators held accountable.

As indicated in the video testimony of Jigme Gyatso, the 56-year-old monk, they expect those of us in exile, those of us living in a free and democratic country like Canada, to raise the challenges and to talk about issues they faced.

● (1155)

They risk their lives in passing information to the outside world so that we would know about the reality of the situation in Tibet, so that we would know about the over one million Tibetan nomads being forcefully relocated, so that we would know about the over one million Tibetan children forced into boarding schools for political indoctrination, so that we would know about the destruction of Tibetan monasteries such as Larung Gar and Yarchen Gar, so that we would know about evictions of Tibetan monks and nuns, and so that those of us in exile, those of us in the free world, would know about the cultural genocide that is taking place in Tibet through the destruction of their language, religion and cultural identity.

Mr. Chair, the situation in Tibet under President Xi Jinping is dire and urgent. I request that this committee consider using tools that we have at our disposal, such as the Sergei Magnitsky Law and this Bill C-281 to challenge and counter such blatant human rights violations. We cannot and must not let the perpetrators continue any more such crimes with impunity.

Thank you.

The Chair: Thank you, Mr. Therchin. Certainly, that was difficult testimony, but we're very grateful for that.

Now for our final witness, we will go to Ms. Leung.

Ms. Leung, you have five minutes as well. The floor is yours.

● (1200)

Ms. Katherine Leung (Policy Adviser, Hong Kong Watch): Thank you, Mr. Chair.

My name is Katherine Leung, and I am the policy adviser for Hong Kong Watch in Canada.

Hong Kong Watch supports the heart of Bill C-281, which would make it easier for parliamentarians to recommend foreign officials who should be included on a sanctions list, including those guilty of the ongoing human rights crackdown in Hong Kong. As committee members will no doubt be aware, many of these Hong Kong officials have links to Canada, including owning property, having family members with foreign passports and having been educated here. The bill would also rightly increase the government's powers to ban state propaganda outfits operating in Canada, like CGTN, which spread disinformation and seek to interfere in our public debates. Such a ban would bring Canada in line with like-minded partners like the U.K., which banned CGTN in February 2021.

This specific amendment to the Department of Foreign Affairs, Trade and Development Act is a welcome provision. As I am sure members are aware, Hong Kong has over 1,000 political prisoners at this time, and this number is only growing. We note that there are several political prisoners who previously held Canadian citizenship or who have family links to Canada. The Hong Kong authorities have jailed so many political prisoners in the last several years that overcrowding in prisons is a growing problem. The authorities are running out of space to put the activists, journalists and trade unionists they have incarcerated.

Hong Kong has one of the largest populations of political prisoners in the world, with over 10,000 politically related arrests since 2019. We urge Global Affairs to consider better tools to track and identify those prisoners of conscience who have links to Canada. We believe that this new provision will allow NGOs, like Hong Kong Watch, to be better equipped to advocate for the release of people whose only crime is to fight for the betterment of their country.

With regard to the provision for the Sergei Magnitsky Law, we should be proud to be one of the first countries in the world to adopt a Magnitsky sanctions regime, which allows us to target and hold to account individual human rights violators. It is, therefore, sad to note that not a single entity or individual from China has currently been sanctioned by Canada under the Magnitsky law. As members will be aware, Canada has sanctioned just four individuals and one entity in China for human rights violations in the Xinjiang Uyghur Autonomous Region under the Special Economic Measures Act. We have no shortage of reasons to sanction Chinese and Hong Kong officials. In fact, parliamentarians have repeatedly, in the form of letters and committee reports, called on the government to do so.

Sanctions are a tool for Canada to hold human rights violators accountable. Tools only work when they are used. From what we have seen, there is an inconsistency in the government's approach. It has introduced a Magnitsky sanctions regime that it claims is world leading, yet it refuses to use it, instead relying on SEMA. The sole purpose of the Magnitsky law is to protect human rights on a global scale, whereas SEMA exists as an economic sanctions scheme and is not intended to be used solely against human rights violations.

The proposal of this bill to create a mechanism by which the Minister of Foreign Affairs is required to respond to recommendations made by a parliamentary committee is a welcome step forward. This will not only serve as a way to incentivize the government to utilize this tool for its intended purpose but will also provide transparency on the reasons behind such decisions. After all, sanctions do not sit in a vacuum away from wider policy-making. They are political in nature and have a significant impact on the bilateral relations between countries. The decision and reasoning to not sanction an individual human rights violator is as important as the rationale for doing so. This provision of the bill will help inform the public, civil society groups and NGOs on the wider thinking when it comes to the government's sanctions policy and its commitments to uphold human rights.

Turning to the amendment to the Broadcasting Act, I believe Canadians would find it reasonable that regimes that are committing genocide or ongoing human rights violations should not be given a platform on Canadian airwaves. The distribution of state propaganda from countries that grossly violate human rights is not in the public interest. For example, CGTN is under the control of the central propaganda department of the Chinese Communist Party. It is a tool of propaganda, disinformation and the violation of human rights. In 2019, CGTN aired a forced-confession video of Hong Kong activist Simon Cheng that was recorded under duress and which he was coerced into filming as a condition for his release. CGTN has also broadcast blatant disinformation, denying the Uyghur genocide, mischaracterizing the Hong Kong pro-democracy movement as riots rather than peaceful protests, and claiming that COVID-19 originated in the U.S. in contradiction to scientific evidence.

An important point to raise is this: Who is on the receiving end of this propaganda? In Canada, it is largely Chinese immigrant communities that are consuming this. To allow CGTN to continue operating on public, state-owned Canadian airwaves is to allow Beijing's propaganda to misinform, propagandize and have direct influence on Chinese-speaking Canadians.

In closing, I will say that we are supportive of Bill C-281 as a way to increase the government's accountability and transparency in Canada's role in upholding human rights internationally.

Thank you.

The Chair: Thank you very much, Ms. Leung.

Yes, Mr. Zuberi.

● (1205)

Mr. Sameer Zuberi: On a point of personal privilege, I'd just like to note for the record that if I did not have my computer today, and my phone, I would not have been able to participate in this committee meeting.

The only reason I'm able to participate in this meeting right now is that I have my laptop. My phone is actually in the shop, and I cannot vote remotely, so it would have been physically impossible for me, if somebody did not message me on my personal cell to tell me that this committee had started, for me to participate—as a member of this committee—in this meeting.

This meeting should not have started within 10 minutes of our completing the vote counts.

The Chair: Mr. Zuberi, again, as I indicated earlier—

Mr. Sameer Zuberi: The Conservatives have filibustered for seven meetings. This will be heard.

I implore that this does not happen ever again. It would not be physically possible—

The Chair: Mr. Zuberi, your point is well taken.

As was indicated, this has happened previously as well, when we had a tight schedule. If there is a quorum, the members can say, “Can we resume?”

Mr. Sameer Zuberi: The Conservative Party has not respected this committee. It has filibustered this committee for seven meetings, and our witnesses in this committee have been sidelined and have been disrespected by the Conservative Party. This is a matter of parliamentary privilege and the way this organization functions.

We cannot even have witnesses if this organization doesn't function properly.

The Chair: Thank you, Mr. Zuberi.

Now we will proceed with questions to—

Mr. Garnett Genuis (Sherwood Park—Fort Saskatchewan, CPC): Mr. Chair, perhaps I can just comment on the question of privilege. I'm not sure what this has to do with the Conservative Party. The member has raised a question of privilege, and it's the prerogative of the chair to rule on it—

Mr. Sameer Zuberi: This has everything to do with you personally and the Conservative Party.

You have filibustered this committee for seven meetings in the past. This has everything to do with—

Mr. Garnett Genuis: The member raised a question of privilege, and the chair can rule on that question of privilege or he can reserve judgment for later, but I'm not the chair. Just to be clear, I'm not the chair.

Mr. Sameer Zuberi: You have filibustered this meeting for seven meetings in the past. It's been documented and reported upon.

Mr. Garnett Genuis: That's not what we're talking about today.

Mr. Sameer Zuberi: That's a fact.

Mr. Garnett Genuis: It's not the question of privilege you raised.

Anyway, I'm done. Thank you.

Mr. Sameer Zuberi: The issue of privilege is that this committee should not have happened in any way whatsoever. In the time that I personally could physically walk from the House of Commons, vote and get to this committee meeting, this meeting should not have started.

Thank you.

The Chair: Thank you, Mr. Zuberi.

Given the limited time we have available for questions from the witnesses, we will proceed with questions.

I should advise all the members that, regrettably, Mr. Turp had to leave us due to a previous engagement, so he's no longer connected.

We can now proceed with questions for the two witnesses who remain, who are Mr. Therchin from the Canada Tibet Committee and Ms. Katherine Leung from Hong Kong Watch.

The first question goes to MP Lawrence.

You have four minutes.

Mr. Philip Lawrence (Northumberland—Peterborough South, CPC): Thank you very much.

Chair, I'll be splitting my time with Mr. Genuis.

I'll be asking a couple of questions of you, Mr. Therchin. Thank you very much for your testimony. It was very moving and powerful. I can certainly say for myself, and I'm sure for many in the room, that we stand with Tibet.

With respect to the first two parts of Bill C-281, the first area is prisoners of conscience. Just in general, maybe not getting into the specifics of the legislation, do you believe that by shining more light on some of the atrocities that are happening and the prisoners of conscience being held by the regime in Beijing could be helpful to prisoners of conscience who are human rights defenders from Tibet?

Mr. Sherap Therchin: Thank you for the question.

The reason I chose to talk about this particular topic of arbitrary detention, torture and killing is that I find that this particular topic connects many other human rights violations, and Tibet issues are very complex, very multi-layered.

We have a lack of religious freedom. There are protests related to a lack of opportunity to practice and promote the Tibetan language. There are Tibetan nomads being displaced. There are Tibetan children being forced into boarding schools.

What connects all of this is that any Tibetans found protesting, raising their voices against any of these human rights violations are put immediately, without any formal charges, into prison. The trouble, the trauma and the torture that they go through have created an environment of fear among Tibetans in Tibet that deters many other Tibetans from participating in similar protests in the future.

A good example is the 2008 Beijing Olympics. We saw protests across Tibet, and the purge of those who participated in the 2008 Beijing Olympics continues today. Hence, it's not surprising that we didn't see much protest in last year's Winter Olympics that happened in Beijing.

● (1210)

Mr. Philip Lawrence: Thank you very much.

I'll hand the rest of my time over to Mr. Genuis.

Mr. Garnett Genuis: Thank you to our excellent witnesses today. You have my apologies for the time. There are things beyond our control.

Ms. Leung, you alluded to the fact that foreign state-controlled media is a form of foreign interference. I wonder if you can develop that idea a little bit and explain your thoughts on that.

Ms. Katherine Leung: Thank you, Mr. Genuis.

It has been spoken about explicitly by Xi Jinping and Li Keqiang that overseas Chinese are a tool that they wish to use in exerting Chinese influence abroad. The way that this becomes interference instead of simple influence is that these overseas Chinese populations are fed misinformation, disinformation and propaganda directly through CGTN on Canadian airwaves.

I should note that it is primarily Chinese diaspora populations that are consuming this information. Therefore, they are the tools that are used by the United Front Work Department, if they take it as truth, to spread disinformation to people who don't watch CGTN.

It is also important to note that it has been stated in the United Front Work Department's mandate that they explicitly will guide the Chinese populations abroad. That is one of their objectives.

The Chair: Thank you.

We next go to MP Zuberi.

MP Zuberi, you have four minutes.

Mr. Sameer Zuberi: I'd like to thank the witnesses for being here and share that I have a lot of empathy and awareness for your causes. I thank you for being here in person and remotely today to testify.

I would also like to note that the subcommittee of this committee, the foreign affairs committee, is looking at a study relating to residential schools in Tibet. I'd ask you to look out for that in terms of the testimony that we're having there and what the committee will do from that study.

I'd like to learn more about the situation in Tibet and to hear about what the views are with respect to how Tibetans are treated. Is it the case that, in all situations, the cases of those who are receiving repression from the state should always be put in public, or sometimes do we need to advocate in private for them?

That's directed towards Mr. Therchin.

Go ahead, please.

Mr. Sherap Therchin: It would always help to make the challenges faced by Tibetans public because one of the challenges we deal with concerning Tibet is the lack of information coming out of Tibet. Tibet remains one of the most inaccessible regions in the entire world.

As I mentioned in my opening remarks, Tibetans risk their lives passing their information to their families in exile so that it will reach the outside world, so that we can talk about it in platforms like this. It would certainly help to talk about the issues publicly.

I also want to add that the Dharmshala-based think tank, the Tibetan Centre for Human Rights and Democracy has a database of over 2,000 Tibetans being detained in Tibet. Many of them serve prison sentences from 10 to 15 years for charges as frivolous, I find, as passing information or talking to their family members in exile, or sending money, as in the case of a 36-year-old mother, to her family members who are in exile. There's nothing political about the activities, yet they are detained, tortured and, in some cases, killed in prison or after release from prison.

● (1215)

Mr. Sameer Zuberi: Picking up on the point of getting information out of Tibet, outside of this legislation, can you talk about other items you think might be helpful in order to get more information out of Tibet—related to this specific legislation or otherwise?

Mr. Sherap Therchin: Absolutely.

In addition to visits to Tibet, which happened in 2020, I believe, with Ambassador Dominic Barton, I hope that something like the Reciprocal Access to Tibet Act, which was passed in the U.S. about two years ago, could really help here in Canada. The principle of reciprocity could be applied.

We had Chinese-appointed delegates from the so-called Tibet Autonomous Region testifying before this very committee in 2018, yet we don't get the same opportunity for our Canadian parliamentarians to go independently, without any restriction, to any parts of the.... Unrestricted and independent access to Tibet, whether by Canadian government officials, Canadian parliamentarians or Canadian media, would certainly help gather more information about what's happening there.

Mr. Sameer Zuberi: Thank you, Mr. Therchin.

The Chair: Thank you.

We will now go to Ms. Normandin.

You have four minutes, please.

[*Translation*]

Ms. Christine Normandin (Saint-Jean, BQ): Thank you very much, Mr. Chair.

I thank both of our witnesses for being with us.

Ms. Leung, we have heard comments to the effect that, if the committee made recommendations to the Minister of Foreign Affairs regarding the use of the Magnitsky Act, that may make our intentions known to the people affected, who may withdraw their assets from the country. On the other hand, there is also the risk that we wouldn't be able to impose sanctions in cooperation with other countries. I would like to hear your views on that.

I would also like to know whether you think that risk is offset by the fact that sanctions may be used more under the Magnitsky Act if that came from the committee's recommendations.

[*English*]

Ms. Katherine Leung: Thank you for the question.

I believe there's always a risk of foreign officials wanting to move their assets, but we do know right now that foreign officials from China and Hong Kong store their assets overseas because of the likelihood that Xi Jinping will do another corruption crackdown. Many officials in Hong Kong in particular have foreign assets that are usually under the name of a family member so that they won't be traced when there is a corruption crackdown. It is for historical reasons that they do this, because of Hong Kong's previous colonial history.

That said, it is important that we do publish the list of the names of individuals we should sanction in Canada, because it is the leverage that Canada has over human rights violators in Hong Kong and China. Like Russian oligarchs, they like to store their wealth abroad because of the unstable economy in their country. As western countries, this is the leverage we have to hold them to account. I believe that in itself counterbalances the risk of their moving assets.

[*Translation*]

Ms. Christine Normandin: Thank you very much.

I would like to know what our two witnesses think about having a list that publishes the names of prisoners of conscience.

Would it be a good idea to add an explanation to the names on that list as to why these people are prisoners of conscience? Could this be used as an educational tool for the public?

[*English*]

Mr. Sherap Therchin: Thank you.

It would certainly help. For us, the goal is to share information about prisoners of conscience. As I mentioned earlier, there are official records of over 2,000 Tibetan political prisoners. There are details about why they were detained, what the charges were in cases where there were charges, what the prison sentences were and details about, as Jigme Gyatso testified, the torture they went through.

I hope that would be helpful to the committee members. I'm happy to submit those reports.

● (1220)

[*Translation*]

Ms. Christine Normandin: Ms. Leung, do you have anything to add?

[*English*]

Ms. Katherine Leung: If I may add to that, I do believe it is a good idea to publish the rationale behind it. In Hong Kong especially, many political prisoners have been charged under what may seem to be legitimate charges in countries with the rule of law. For example, a lot of protesters were charged with possession of a dangerous weapon, when they were only carrying, for example, an umbrella or a flashlight. These are widely known cases in Hong Kong, and there are many of them.

I think it would be good for there to be a rationale because, to the unassuming person, it might seem like they actually did something that constitutes a crime, when really it's a political charge.

[*Translation*]

Ms. Christine Normandin: Thank you.

[*English*]

The Chair: Thank you.

We now go to Ms. McPherson for four minutes.

Ms. Heather McPherson (Edmonton Strathcona, NDP): Thank you very much, Mr. Chair.

Thank you to both of the witnesses for being here today and sharing your testimony with us. I think it's so important for us to hear this. I also sit on the international human rights subcommittee, so I have heard some testimony regarding the residential schools in Tibet. Thank you for being here.

I'm going to ask the same questions. I'm going to ask two questions and then I'll give you some time to respond, if that's all right.

With regard to Bill C-281, the New Democratic Party is bringing forward a number of different amendments. One amendment we'd like to see is with regard to a human rights strategy. Canada does not have a human rights strategy that we could use as a baseline for the annual report. We're pushing for having that baseline, so that the government could show what they've achieved using that as the baseline.

I'd like some information from you on whether or not you would agree that a human rights strategy would be useful in this legislation.

The other piece I'd like to ask you about very quickly.... In this legislation, we have a definition of a “prisoner of conscience”. Now, Alex Neve, who was the secretary general of Amnesty International, joined us at our last meeting. He suggested that, instead of it being a “prisoner of conscience”, we should have a definition that refers to individuals who are detained or experiencing other treatment in contravention of international human rights standards.

Would you agree that it would be useful to have that within this legislation? Perhaps you can expand on that.

Perhaps I'll start with you, Mr. Therchin.

Mr. Sherap Therchin: It would certainly be helpful, and I agree on the amendment of a human rights strategy in Bill C-281.

I'm not very familiar with the technicalities, but I would certainly defer to Alex Neve, whom I have known for many years as a very well-respected human rights defender and supporter of all the victims of Chinese oppression, whether it's Tibetans, Uyghurs or Hong Kongers.

In this case, I would agree with what Alex Neve has recommended.

Ms. Heather McPherson: I think it gives more breadth. What he brought up is the idea that there are people who have been detained, or there are people of whom we don't actually know whether they've been detained, but we would also want them to have protection under some of this legislation.

Ms. Leung, could you provide your thoughts?

Ms. Katherine Leung: Yes. Both amendments would be agreeable to me.

I don't see why there cannot be a human rights strategy from the government. We have seen a lot of different statements of concern and mandate letters, etc., from the government, without a solid human rights strategy. I think that would be helpful, especially for NGOs like Hong Kong Watch that are advocating for human rights.

As for the amendment for the definition of “prisoner of conscience”, I believe that would be helpful. It would definitely add more clarity to how the bill is to be applied.

Ms. Heather McPherson: Thank you very much.

I have one last question for you, Ms. Leung.

I just want to get a little bit more information from you with regard to the use of SEMA versus the Magnitsky sanctions. Can you tell me what the difference is, in your opinion, in terms of outcome? I don't mean in terms of the application, but in terms of the outcome.

Ms. Katherine Leung: In terms of outcome, it is difficult to tell currently because we don't really have enough cases to compare them, in my opinion. We have seen a lot of sanctions under SEMA, but really not that many under the Magnitsky act. I think it's difficult to tell at this moment.

Ms. Heather McPherson: Thank you very much.

That's all of my questions, Mr. Chair.

The Chair: Thank you, Ms. McPherson.

We now go to the second round of questioning. For this round, each member will be provided two minutes with the exception of the Bloc and the NDP members, who will get one minute each.

We first go to Mr. Genuis.

You have two minutes, sir.

● (1225)

Mr. Garnett Genuis: Thank you, Chair.

I think we've heard good testimony from witnesses that will inform us on potential amendments, especially around the section on how to get the balance right on the prisoners of conscience issue.

On the one hand, I think there is a need to have some external pressure on the government and generally there's a benefit to more exposure to these cases, but there may be exceptions and we should be cognizant of those exceptions as well.

In the limited time I have left, I did want to ask Mr. Therchin if he could share whether he thinks the Tibetan community is impacted by foreign interference here, by CGTN or through other mechanisms. Does the repression extend to the Tibetan diaspora?

Mr. Sherap Therchin: Thank you.

The PRC repression of Tibetans certainly extends to Tibetans outside of Tibet, to Tibetans in India, Nepal, Canada, the U.S. and elsewhere. We have seen Tibetans.... One of the ways Tibetans in exile are targeted is whether or not they still have families in Tibet. That seems to make a difference in preventing them from participating in any political activities—something as simple as participating in our annual Tibetan Uprising Day, which happens to be on March 10. You would see Tibetans, from all walks of life and of different ages, taking this day, once a year, very seriously, in order to remember the massacre of thousands of Tibetans who were killed in 1959. However, there's a fear prevalent among many Tibetans, especially those who have families in Tibet, so you will not see them participating in events like this.

There are Tibetans, especially human rights defenders, who have become victims. As Freedom House reported in September last year, “Tibetans in exile and members of the Tibetan diaspora have faced relentless phishing and hacking attacks, as well as intimidation and threats online”.

On a larger scale—

The Chair: Thank you, Mr. Therchin.

We'll go to the next member.

Madam Bendayan, you have two minutes.

[*Translation*]

Ms. Rachel Bendayan (Outremont, Lib.): Thank you, Mr. Chair.

First of all, even though Professor Turp had to leave the meeting early, I still wanted to emphasize the importance of his testimony. It is obviously an honour to have another professor from the Université de Montréal, which is in my constituency, appear before the committee.

I was wondering if Professor Turp could provide the committee with more information in writing about other terms that already exist in Canadian legislation or elsewhere that we could use. We are looking for terms that already have a legal definition.

As we have witnesses with us today, I will ask them a few questions.

[*English*]

Mr. Therchin, perhaps I will take the rest of my time to ask you to elaborate a little on your own personal experience with Tibetan prisoners.

Do you feel having a list may be prejudicial? For example, for those individuals who don't make it onto the list, what message would we be sending them?

Mr. Sherap Therchin: That's, I believe, a difficult choice, but it's a case that's quite common in Tibet. The list of people who are detained is not public. The number I mentioned earlier—2,000—is, I would say, a very small fraction of the overall number. I would guess there are thousands more Tibetans who are detained, yet we do not know their identities or the rationale behind their arrests.

Whether we should make the list public or not.... I would recommend that the list become public, so we at least know stories. The problem, as I mentioned earlier, is that we do not know enough about the stories coming out of Tibet.

● (1230)

Ms. Rachel Bendayan: Is there any risk to the prisoners who would be listed? Do you have any fear or concern they could face worse conditions, as a result of being on the list?

Mr. Sherap Therchin: There's certainly a risk. However, as indicated in the testimony from Jigme Gyatso, who passed away last year, they are taking this position because they hope people will know about it.

Thank you.

The Chair: Thank you.

We'll move to Madam Normandin.

You have a minute.

[*Translation*]

Ms. Christine Normandin: Thank you very much, Mr. Chair.

I wanted to put a similar question to both witnesses, so I will put it to Ms. Leung.

Can the use of a list be detrimental to some prisoners? Should the names of those who have expressed or implied that they don't want their names to be published not be published?

[*English*]

Ms. Katherine Leung: Thank you for the question.

I believe it would be good for the government to consult with the families of the detained before publishing the list. We have heard from some Hong Kongers that they would rather not have their names be public. Family members, especially, who may be living in Canada would also say the same thing, because the treatment of political prisoners in Hong Kong is very bad, to say it bluntly.

However, that should not deter the government from publishing a list in general. I believe it would be good for the government to put pressure on the Chinese government when they are detaining political prisoners. It would be important that we publish that list to put pressure on them to do so.

The Chair: Thank you very much.

That now means we will move to the next panel. Before we do so—

Ms. Heather McPherson: Do I not get my last minute?

The Chair: I apologize, Mr. McPherson. You're absolutely right. Yes, you get a minute.

You have my apologies.

Ms. Heather McPherson: It's not very much time, but I would certainly appreciate still getting it. Thank you, Mr. Chair.

Thank you again to our witnesses. I think because my colleague from the Bloc asked that question of our colleague online, I would ask a very similar question.

Do you see a way we could provide a list that would be both public and private, based on the circumstances, so that there would be some protection for those who do not want to make their name public—a way of saying who and how many, but without revealing identities? Would that be a solution you could see, from your perspective?

Mr. Sherap Therchin: Certainly, yes. The list we have is already public, but for those people who are detained and who do not want to be identified, sure. However, our list is already public.

Ms. Heather McPherson: When we look at legislation, it's important to recognize that this legislation will apply to the entire globe. In some circumstances, of course, it would probably be something that those who are detained would not want made public.

Mr. Sherap Therchin: I agree. Yes.

Ms. Heather McPherson: Thank you very much.

With that, Mr. Chair—

The Chair: Thank you very much for that.

At this point, I want to thank Mr. Therchin and Ms. Leung for their invaluable testimony and perspectives. We will certainly make very good use of all the things you brought to our attention. Thank you for being here with us.

We will move to the second panel now. We will suspend for a couple of minutes—no more—and then resume.

For all those members who are online, you don't have to do anything. We're just going to check in with the next set of witnesses.

Thank you.

● (1230)

_____(Pause)_____

● (1235)

The Chair: Welcome back, everyone. I call the meeting back to order.

We will now resume our consideration of Bill C-281, as was agreed to by the members. This panel we will hear from until 1:15.

We have three great panellists with us here today. First, we have Mr. Earl Turcotte, who is appearing as an individual. Second, we have Mr. William Browder, who is the founder, chief executive officer and head of the Global Magnitsky Justice Campaign. He is here on behalf of Hermitage Capital Management. Last but certainly not least, we have Ms. Farida Deif, who's here from Human Rights Watch Canada.

We're very much looking forward to your testimony.

Please only speak when you're recognized by the chair.

We will go to Mr. Turcotte first for his opening remarks of five minutes.

Mr. Earl Turcotte (As an Individual): Thank you, Mr. Chair.

Mr. Chair, ladies and gentlemen, I'll restrict my comments to the only area of Bill C-281 on which I am competent to speak, and that is regarding cluster munitions.

First I'd like to congratulate Mr. Lawrence and the parliamentary colleagues who worked with him to develop these proposed amendments. Certainly with respect to cluster munitions, what these amendments would do is to make explicit in Canada's law what some would maintain is implicit in the prohibition on assistance in the development or use or in any other way advancing of the use of cluster munitions. I will, as you'll see very soon, be recommending that amendments go further than this provision, however.

Very quickly, for those who may not be that familiar with cluster munitions, they were first developed in World War II. They have been used most extensively in the carpet bombing campaigns in southeast Asia and the Vietnam war, and used more recently in Afghanistan, Yemen and Syria and, as I'm sure most of you know, very extensively in Ukraine, mostly by Russia, although there have been reports in a few instances of use by Ukrainian troops.

These are the polar opposite of a precision weapon. They have been described as conventional weapons of mass destruction. They are by design area-wide weapons. When a cluster bomb is dropped, either at ground level or from the air, think of it as a large, hollow casing within which there are typically hundreds of submunitions, extremely deadly submunitions, far deadlier, actually, than land mines on average. One cluster bomb can cover an area roughly the size of three football fields. Russia today is using many of them, multiple-launch rocket systems that can launch 12 rocket rounds in very quick succession. Essentially they are weapons that saturate a given area. They make no distinction, of course, between combatants and non-combatants, especially when deliberately used in civilian areas, as appears to be the case in Ukraine.

According to the International Committee of the Red Cross and civil society experts, roughly 97% of all known victims worldwide have been civilians, 66% of whom have been children, who are often drawn to the bright colours of the submunitions. Many maintain that they've been designed that way quite intentionally.

It was no mistake, then, that the international community in the mid-2000s decided that cluster munitions had to be banned as most of the world had already banned anti-personnel land mines, an initiative led by Canada in the late 1990s, and had also banned chemical and biological weapons, and blinding laser weapons among others.

I was a public servant for 29 years, and I had the honour of leading the Canadian delegation throughout the 15-month negotiations of the Convention on Cluster Munitions. Within that negotiation, the most contentious issue related to interoperability with non-party states; that is to say, our capacity, in our case as a member of NATO, to continue to work effectively alongside countries like the United States that chose not to participate in negotiations. At least 85% of the countries were absolutely opposed to any provision for interoperability in the convention, for fear that this would provide a legal loophole that would, in some respects, contribute to the continued use of cluster munitions.

I, as head of delegation, and 21 NATO colleague countries and a few non-NATO countries, insisted that we had to have within the convention itself provision for interoperability, while making it very clear at the same time that this in no way would allow our troops to advance the use of cluster munitions. In fact, we went further and said we would put right in the article itself the fact that we were legally obligated to make best efforts to discourage the use of cluster munitions by any actor under any circumstances.

● (1240)

That is exactly the way, in my view and the view of 110 other state parties, this article within the convention should be interpreted.

No sooner did we return to Canada in 2008 than colleagues at the Department of National Defence insisted on including in Canada's act exceptions that would apply during combined operations with non-party states that, in my view and in the view of many others, are absolutely contrary to the convention itself. Those exceptions would allow for a Canadian commander of a multinational force to order the use of cluster munitions by non-party states, for Canada to transport them on Canadian carriers and, in many other substantive ways, to aid and abet in the use of cluster munitions.

I would urge this committee to please consider amending section 11 of Canada's act to absolutely remove all these exceptions, which are not consistent with the commitment Canada, as a state party, has made.

Thank you.

The Chair: Thank you very much, Mr. Turcotte.

We now go to Mr. Browder.

Mr. Browder, you have five minutes.

● (1245)

Mr. William Browder (Head of the Global Magnitsky Justice Campaign, Author, and Founder and Chief Executive Officer, Hermitage Capital Management Ltd): Thank you very much for this opportunity to discuss the Magnitsky act in Canada and the ways in which we can amend and improve it.

As many members of the committee know, I was one of the original advocates of the Canadian Magnitsky act. Sergei Magnitsky was my lawyer in Russia. He was murdered for uncovering a massive corruption scheme in 2009. Canada passed the Canadian version of the Magnitsky act in 2017.

We're now in a situation where 35 countries have Magnitsky acts and use them against human rights abusers and kleptocrats around the world. It's been a remarkable, and I would say viral, legislative initiative that has done a huge amount of good and created a counterbalance to dictators and bad actors in the world. It's something that gives the victims some hope for the future. I'm very proud to have been involved in this, but there are things we can do to improve it. That's what I am here to talk about today.

The first thing I want to say is that, as many of you know, Canada rarely uses the Magnitsky act. Canada often uses the Special Economic Measures Act when there are human rights abuses. Of course, it's good that a sanction uses whatever it has to punish human rights abusers, but part of the beauty of the Magnitsky act is that it is multilateral. In other words, other countries have it. Part of the benefit and part of the objective of the Magnitsky act is that we have sanctions imposed on bad actors not just by Canada but by other countries as well.

One of the problems with the Special Economic Measures Act, which is used instead of the Magnitsky act, is that it causes confusion. To the extent that we want to get other countries to act in unison, which is a very important objective, that gets lost by this misnaming of something that is pretty much the same thing. I would argue emphatically that either the Magnitsky act should be used, or, as I understand it, there is some type of proposal for an amendment to the Special Economic Measures Act to call it the Magnitsky act, so that when Canada is sanctioning human rights abusers, everybody knows that you're using the Magnitsky act and other people who have a Magnitsky act are signalled to use it as well.

My first proposal for an amendment is to either rename the Special Economic Measures Act or use the Magnitsky act when it comes to human rights abusers.

This leads me to the second proposal, which is that harmonization between countries is crucial. We now have a situation where Canada might sanction someone and the U.K. wouldn't.

I am very aware of a very specific situation that I am involved in right now. A friend of mine, one of the people who advocated for the Canadian Magnitsky act, is a Russian opposition dissident named Vladimir Kara-Murza. He has been put in Russian prison and is facing 24 years in prison for calling out Putin's war in Ukraine. Canada, very rightly, and as a first country, has sanctioned a number of people involved in his false arrest. Unfortunately, we're still now working on other countries to do the same thing.

To the extent that there can be some type of formal provision in the Canadian Magnitsky act to actively work with other countries to harmonize sanctions, it would have a much greater effect. I can absolutely tell you, since I've been to all the countries, that Canada is not necessarily talking to the U.K. Perhaps they're talking to the U.S., but there should be something formalized in the law to say that there's a responsibility to try to get other countries to do this.

● (1250)

The third thing I would propose is that it's confusing for victims of human rights abuses to approach the government and to know how to share evidence in order to get people sanctioned. There should be a single point of contact. There should be widespread education on how the process works among NGOs and human rights groups and victims groups so that everybody knows how to go about doing this. There's no mystery. You don't need a law firm. You don't need a specialist. Anyone can go online and figure out how to present and propose evidence and know how to do it in the best possible way.

The final thing I would say is that at the moment there is no responsibility for the government to report back to Parliament about what it's done or what it hasn't done with Magnitsky sanctions. It's Parliament's job to oversee the government, and the government often doesn't have any good excuse for why it hasn't gone forward on Magnitsky sanctions. I've been involved in a number of situations where submissions have been made, and it's like going into a black hole. After they make the submissions, nobody knows what's going to happen next.

I believe there should be some type of parliamentary review. There should be some type of responsibility for the government to say, here are all the submissions we have and here are the ones we've acted on, so that there is some type of transparency and some type of accountability of the government to do this.

It's a—

The Chair: Mr. Browder, I'm afraid you are considerably over your time limit. Perhaps we'll get back to the other concerns you have during the questions by members. Thank you.

We will now go to Ms. Deif from Human Rights Watch.

You have five minutes for your opening remarks. Once I hold this up, that means you really should be wrapping up, please.

Ms. Deif, the floor is yours for five minutes.

Ms. Farida Deif (Canada Director, Human Rights Watch Canada): Thank you, Mr. Chair and honourable members of Parliament, for inviting me to appear before this committee.

My name is Farida Deif. I'm the Canada director at Human Rights Watch. Human Rights Watch, as you know, is an independent international human rights organization that monitors human rights abuses in nearly 100 countries, including here in Canada.

I am delighted to have this opportunity to share thoughts on Bill C-281. In the nearly seven years that I've been in this role, I've engaged extensively with Global Affairs Canada colleagues, both in Ottawa and at Canadian missions around the world. I've also worked on a range of policy files with relevant staff in the offices of five different foreign ministers appointed during this period.

While I've heard more times than I can count that a certain human rights crisis or the case of a prisoner detained in violation of international law was “top of mind”, as civil society we're often not privy to much tangible or concrete information in terms of the specific actions taken by the government on their behalf. I certainly welcome the proposed amendment to the Department of Foreign Affairs, Trade and Development Act to include reporting requirements relating to international human rights. With enough concrete detail, these annual reports could be an incredibly useful tool for Canadian civil society and the human rights sector writ large.

These reports could also create a yardstick to measure the implementation of GAC's own “Voices at Risk: Canada's Guidelines on Supporting Human Rights Defenders”. As noted in the guidelines, Canadian government officials should request to attend trials and visit detainees in prison even when the detaining authority is unlikely to approve the request, in order to demonstrate that there is “continued international interest in the case.”

These guidelines further note that attendance by Canadian officials at trials or hearings—“a clear and visible expression of Canada's concern”—can be helpful by “allowing for detailed tracking of legal proceedings, observing whether due process is respected, and ensuring up-to-date information on cases of particular interest”. Seeking to visit a detainee imprisoned in violation of international human rights law can also be a meaningful way of showing support to the individual, assessing their treatment in detention and registering condemnation with the detaining authority.

This is why the current amendment on human rights reporting should include detailed information not only on those prisoners for whom the government is actively advocating for their release but also on any efforts to attend trials and hearings, the number of requests for prison visits made by Canadian missions and authorities and the response of detaining authorities. Of course, in some cases, it would be important to anonymize the names of prisoners to mitigate security risks and possible retaliation.

I'd like to turn now to the bill's proposed amendments to the cluster munitions act. Human Rights Watch has played a leading role in documenting the harm to civilians caused by cluster munitions, including most recently in the Ukraine conflict. Our research and analysis has informed the negotiation and implementation of the Convention on Cluster Munitions.

In 2012, my colleagues in the arms division testified before the Senate foreign affairs and international trade committee on the then Bill S-10, the Prohibiting Cluster Munitions Act. We also submitted written testimony to the House of Commons standing committee highlighting several key provisions that would benefit from revision or clarification, including the need to explicitly prohibit investment in cluster munitions.

As you know, the preamble of the Convention on Cluster Munitions articulates its goal to eliminate cluster munitions and to bring an end to the suffering they cause. The current bill would advance that objective by reducing funding for the production of cluster munitions. It could also help Canada meet its obligations under article 9 to “take all appropriate legal, administrative and other measures to implement this Convention”. Article 1(1)(c) of the convention makes it unlawful for state parties to assist anyone with any activity prohibited by the convention, and investment in cluster munition production is a form of assistance. The funding of entities that develop and produce cluster munitions and their components allows them and encourages them to keep doing so.

The amendment proposed in Bill C-281 thus moves Canada one step closer to ensuring that it implements the convention in accordance with the letter and spirit of the law. In the process, it also provides much-needed clarity to financial and other institutions relating to the prohibition on assistance with production of cluster munitions. The amendment is also in line with measures taken by Canada's allies.

● (1255)

Since 2007, 11 states parties to the convention have enacted legislation that explicitly prohibits investment in these weapons. Nearly 40 states have stated that they regard investments in cluster munitions production as a form of assistance prohibited by the convention. It is also important to note that like-minded governments have worked to close any remaining indirect investment loopholes. For example, government pension funds in Australia, France, Ireland, Luxembourg, New Zealand, Norway and Sweden have either fully or partially withdrawn investments, or banned investments, in cluster munitions producers.

We strongly support these efforts to explicitly prohibit investment in the production of cluster munitions. We also support any efforts, as mentioned by others, to close remaining loopholes in the existing law that will undercut Canada's ability to fulfill the humanitarian potential of the Convention on Cluster Munitions.

Thank you for your attention to these urgent matters and your efforts to advance Canada's leadership on these critical fronts.

The Chair: Thank you very much, Ms. Deif.

We'll now go to the members for their questions. For the first round, they will each get three minutes.

For the responses.... If I put this up, please wrap up your remarks within 15 seconds.

We'll first go to Mr. Chong.

You have three minutes, sir.

Hon. Michael Chong (Wellington—Halton Hills, CPC): Last weekend, The New York Times had a headline for an article that said, “Canada is such an attractive place for money laundering that there's even a special name to describe the activity here: 'snow washing'.” One way sanctions are evaded is through the laundering of money, whether it's money for the proceeds of terrorism or money from the proceeds of corruption.

My question is for Ms. Deif and Mr. Browder.

Mr. Browder, you wrote a piece, recently, with Brandon Silver and Irwin Cotler. It listed a number of recommendations, one of which was that Canada's targeted sanctions must be more effectively enforced. You referenced glaring loopholes in Canada's sanctions enforcement.

Could you elaborate on what those glaring loopholes are?

Mr. William Browder: Should I go first?

Hon. Michael Chong: Yes, please. Time is brief. If you could provide a brief answer, we can also hear from Ms. Deif.

Mr. William Browder: Yes.

Canada, from my perspective, doesn't have an infrastructure in which to prosecute high-level financial crimes. We've seen it with our own eyes in relation to the Magnitsky case. We brought evidence to the RCMP about dirty money from the Magnitsky murder coming to Canada. That information was not acted on properly, in spite of law enforcement agencies in many other countries acting on the same evidence decisively. I think there is a serious lack of capability within the law enforcement agencies.

As far as I'm aware, the amount of money frozen in Canada from these current Russian sanctions is quite small—a lot smaller than the amount of money that is in Canada. I think Canada needs to step up to the plate and get a lot more aggressive in terms of law enforcement and government actions regarding sanctioning individuals.

Thank you.

● (1300)

Hon. Michael Chong: Go ahead, Ms. Deif.

Ms. Farida Deif: Thank you.

We don't actively research money-laundering issues in Canada, but we certainly share many of the concerns that were raised by Mr. Browder, earlier, around the lack of transparency and accountability in the current sanctions system in place in Canada, and the challenges we face, as civil society and others, in formulating submissions to relevant officials in order to propose individuals to sanction.

There isn't really a clear system to do that. It remains an outstanding challenge we hope to rectify.

The Chair: Thank you.

We'll now go to MP McKay.

You have three minutes.

Hon. John McKay (Scarborough—Guildwood, Lib.): Thank you, Mr. Chair.

I want to commend Mr. Lawrence for putting this bill forward. Regrettably, there are four subject matters here that deserve to be bills, themselves. It's very difficult to focus. I'm going to focus on the section with respect to foreign officials.

Of course, it's delightful to see Mr. Browder again. I appreciate his relentless efforts.

I think, however, I would be remiss if I didn't give Mr. Browder a minute to give us an update on the health and status of Mr. Vladimir Kara-Murza.

Mr. William Browder: Thank you, Mr. McKay.

This is really an important issue. Vladimir Kara-Murza, as I mentioned, is facing 24 years in prison for standing up to the Putin regime. As many of you will know, he was poisoned twice, in 2015 and 2017, by the Russian government and nearly died in both cases. He is now in prison. The effects of the poison have plagued him throughout his time, and he's lost the feeling in his feet from the nerve damage that the poison has done.

The situation is so extreme that they suspended the politically motivated show trial they put him on, which is very unusual. It shows how concerned the Russians are to not have him basically perish in the middle of the trial. This has reached a level of what I would say is an extremely urgent situation.

I understand that there is a motion in Parliament to make him an honorary Canadian citizen so that the Canadian government can advocate more effectively on his behalf. I hope that you and others will support that because he's a friend of Canada. He's a friend of this Parliament. He's a person who's very effective in doing all of the things that we're talking about today and making it all happen. He deserves our support.

Hon. John McKay: I couldn't agree with you more. It puts flesh and blood on what we are talking about. We all hope that Vladimir is able to rejoin us.

Thank you, sir, for your relentless advocacy.

I have a dozen questions, and I have no time. I just want to say that it does puzzle me why the government prefers to use the SEMA provisions as opposed to Magnitsky sanctions, so I phoned the contact this morning and asked him why, because he's the one who writes the packages. He didn't know. I think that, if this committee does anything, it'd be useful to sort out why Magnitsky sanctions are not preferred over SEMA sanctions, since the preparation of the package, the presentation to the lawyers, the presentation to the minister, the presentation to the cabinet and the ultimate order in council are all the same.

I don't know if you have any insight into that, Mr. Browder, but it does puzzle me.

● (1305)

Mr. William Browder: Do I have time to answer this?

The Chair: You have 15 seconds, please.

Mr. William Browder: I think that this is a historical view that was taken by previous governments that didn't want to offend Putin. Putin is very offended by the word “Magnitsky”. In the past, different foreign ministers didn't want to offend Putin when we were in the world of appeasement. We're not in a world of appeasement anymore. Nobody wants to appease Putin. We should always call it Magnitsky both because it's the right thing to do—it's now a verb pretty much around the world—and it also has the added benefit of upsetting Putin every time he hears the word.

The Chair: We now move to Ms. Normandin.

You have three minutes.

[*Translation*]

Ms. Christine Normandin: I thank all the witnesses.

Ms. Deif and Mr. Turcotte, I have some questions about cluster munitions.

According to some discussions, extending the application to pecuniary interests would bring a risk of criminalizing investors who are unaware that their investments, often indirect, are being placed in companies making cluster munitions, for example. It was suggested that “knowledge” be added to the wording of the provision, as New Zealand has done.

I would like to hear from both of you on this. Would this be a good way to avoid penalizing people who are not aware of the situation or, on the contrary, is it already covered by the act?

Another possibility would be an addition that would make it possible to circumvent the effect of the act. For example, a person who was unaware of the situation could place the burden on the opposing party to prove that he or she was aware of the situation, thus creating a loophole.

I would like a general comment on this.

[*English*]

Mr. Earl Turcotte: I was able to watch a videotape of previous discussions this committee had on that very issue. I have to say that I agree completely that intent is germane to the actions that are taken indirectly.

In my view, I am sure my former colleagues at the Department of Justice can provide language in any amendment that would make it very clear that if Canadians, through no fault of their own and through no willful negligence in this case, indirectly invest in cluster munitions, they will not be held accountable, while at the same time holding those institutions and individuals accountable who are very much aware of their actions.

[*Translation*]

Ms. Christine Normandin: Thank you, Mr. Turcotte.

Ms. Deif, what do you think?

[*English*]

Ms. Farida Deif: Our position has always been the same from the time we testified around the cluster munitions bill when it was being drafted nine years ago to today. Our belief is that Canada should ensure that there is a clear, categorical prohibition on assistance, foreign stockpiling, transit and investment in cluster munitions.

How that becomes operationalized, how to ensure that individuals who are potentially inadvertently investing...and how those types of issues should be mitigated, I leave up to members of this committee.

Certainly our position is very clear in terms of ensuring that Canada remove any obstacles that are in the way of achieving the cluster munitions convention's goals or that are running counter to the goals of the convention.

The Chair: Thank you very much, Ms. Deif.

We now move to Ms. Mathyssen.

You have three minutes. Thank you.

Ms. Lindsay Mathyssen (London—Fanshawe, NDP): Thank you, Mr. Chair.

I want to thank you, Mr. Turcotte. I'll put my first question to you.

The NDP absolutely agrees in terms of the elimination of section 11, and we will be putting forward an amendment at this committee to do so. You were very clear about this, but could you talk about the consequences if that elimination of section 11 isn't accomplished?

● (1310)

Mr. Earl Turcotte: The main consequence would be that Canada would finally be compliant with the convention itself and its obligations. The second result would be that we would be consistent with the position that has been taken by 110 other states parties to the convention. It would be extremely positive.

Now, in terms of effectiveness in combined operations with non-party states, I firmly believe that at the time—and this was 15 years ago—colleagues from the Department of National Defence believed that not having these exceptions would somehow compromise Canada's effectiveness.

We have 15 years of hindsight, and we have seen what legislation has been passed by our NATO allies and others who are like-minded and the fact that not one of them has included in their legislation such provisions. Certainly other countries such as the United Kingdom, France, Germany and others have the same level of concern about interoperability as we do, and it has not compromised their effectiveness nor do I think, in any real sense, has it compromised Canada's.

That's just to say that I don't believe those exceptions have in any way enabled Canada to play a more effective role in combined operations than if they had not been there.

Thank you.

Ms. Lindsay Mathyssen: Ms. Deif, could you elaborate—if you actually have anything to elaborate on—on that same question?

Ms. Farida Deif: Certainly we would agree that this amendment to section 11 is necessary. This is something we have been calling on Canada to do since the very beginning. This remains a key concern for us. I think we're pleased that one loophole, which is the issue around investment in cluster munitions, is going to be addressed by the current amendment in Bill C-281, but at the same time, there are other loopholes, which include section 11, that should be addressed.

Ms. Lindsay Mathyssen: Mr. Turcotte—

The Chair: You have 10 seconds remaining for a quick response.

Ms. Lindsay Mathyssen: Okay. It goes fast.

In previous testimony, government witnesses talked about the fact that Canada would never condone the use of those cluster munitions, yet they don't push for that elimination in section 11. Why do you think that is? Could you comment on that quickly?

Mr. Earl Turcotte: Yes. We're actually trying to have it both ways. On one hand, we claim that our country is a state party in good standing, fully compliant with the convention, yet we continue to have in the act a list of exceptions.

As I say, it goes beyond aiding and abetting. There is a section of that wider section that actually enables the Canadian commander of the multinational force to order, authorize or direct the use of cluster munitions by non-party state forces—not by Canadians but by others. In this case, we are the author of the order, and non-party states become our agents. That is in no way consistent with what we negotiated in a 15-month period, 15 years ago now.

The Chair: Thank you Mr. Turcotte.

We now go to Mr. Genuis. You have two minutes.

Mr. Garnett Genuis: Thank you, Mr. Chair.

Ms. Deif, the conclusion I'm drawing from some of the back and forth about the section on prisoners of conscience is that it's not good enough for the government to say, “Just trust us”. There should be some mechanisms of pressure and accountability around the listing of those individuals—accountability to parliamentarians, to civil society and to the wider public.

At the same time there does need to be some margin for flexibility. There may be legitimate cases where, based on the wishes of the person involved—their family, their advocates and their own assessment of their interests—publication of their name doesn't make sense.

What we have to do in the amending process is come up with some procedure that does involve pressure on the government, that does involve the publication of names, in many cases bringing more sunlight to this and more accountability, but also some measure of flexibility.

Would you agree with that assessment? Do you think it would be useful to publish some names, while having others anonymized, based on the wishes of the families or a sincere calculation of the interests of the people involved?

Ms. Farida Deif: I agree that a hybrid type of solution makes the most sense, including some names where family members have agreed to it—those individuals are perhaps very public already in the public sphere—while including the number of others who are being advocated for. For example, it would be to just say that in China the Minister of Foreign Affairs is actively advocating for the release of these three said individuals, as well as six other detainees who will remain anonymous.

Having that type of information and content is really important for us. We have none of that at the moment. We have the "Voices at Risk" guidelines, but we have no real sense of when Canadian missions and officials overseas are actually meeting with prisoners or requesting to monitor trials. None of that data currently exists. That's the type of information we need.

● (1315)

The Chair: Thank you, Ms. Deif.

We now go to MP Sorbara. You have two minutes.

Mr. Francesco Sorbara (Vaughan—Woodbridge, Lib.): Thank you, Chair.

Thank you to all the witnesses for their testimony.

I'd like to go to Mr. Browder.

Mr. Browder, I've personally followed much of what you've done over the years. I want to thank you for that. I'm not a permanent member of this committee, and I do feel it's quite a privilege to ask you a question.

In your opening comments you talked about why harmonization is so important among countries. Can you elaborate on that aspect of everything that you've worked on and why it's so important that countries co-operate and collaborate on this initiative?

Thank you.

Mr. William Browder: Thank you very much. It's good to meet you here.

I'll use the real-life example of the Magnitsky case. Sergei Magnitsky was murdered for uncovering a $230-million corruption scheme. The people who stole that money and killed him kept that money in the west. We wanted to shut down the west to them, so that they couldn't use their bank accounts and they couldn't travel. We succeeded in the United States, Canada, the U.K. and Australia. For some reason, because of the European Union's unanimity requirement—Hungary objected—nobody was sanctioned in the European Union.

Although the sanctions have been quite effective and punishing on the individuals, they could still freely travel in and out of the European Union. That upsets me and it upsets Sergei's family. It's not right.

There are many other similar situations in all of these sanctions regimes, whereby they're sanctioned by one, two or three countries, but not by all of the countries. To be effective, you have to basically close off the world to human rights abusers and kleptocrats. To close off the world, everybody has to do it. This is probably one of the most important parts of the Magnitsky regime: creating a situation where we close off the world. I hope that this becomes a priority, a target and something that Canada takes seriously.

Of course, I'm working and saying the same thing to other governments. When I come here and I talk to you, I'm also saying the same thing to the U.K., the United States and the European Union. It's hard to get everybody to work together. I think this is something that's of very high importance.

The Chair: Thank you very much.

We now go to Madam Normandin. You have one minute remaining.

[*Translation*]

Ms. Christine Normandin: Thank you very much, Mr. Chair.

Mr. Browder, you talked about the importance of countries harmonizing the implementation of the Magnitsky Act. Through Bill C-281, the committee could publicly discuss the application of a sanction against someone and make a recommendation to the Department of Foreign Affairs, Trade and Development.

Do you think this could hinder harmonization with other countries or, on the contrary, can it be done at the same time that the government is working on harmonization and the committee is working on selecting individuals?

[*English*]

Mr. William Browder: I think it's very important for both things to happen. I think that Parliament is very important, and this committee is very important in holding the government's feet to the fire. Once the government's feet have been held to the fire and when the government has made a conscious, proactive decision to do something, it's very much incumbent on it to call up its counterparts in the United States, the U.K. and the European Union and say, "We have evidence. This evidence has been presented by our Parliament or by human rights activists. We're going to sanction these people, and we'd like you to do it as well."

I think that in having both things happen, it's only good. There's no downside. There should be nobody to argue against this idea, other than people who just don't want to do more work in Global Affairs Canada by calling up their counterparts.

I think this has to be formalized.

● (1320)

The Chair: Thank you.

For the final question, we go to Ms. Mathyssen. You get a minute. Take it away, please.

Ms. Lindsay Mathyssen: Thank you, Mr. Chair.

Ms. Deif, I'd like to ask you a question.

The NDP will introduce an amendment requiring the government to develop an international human rights strategy. It would then allow for an annual report to address it.

Do you agree that such a strategy is necessary, and could you tell us a bit about why you would agree with that?

Ms. Farida Deif: A strategy is critical. As I mentioned earlier, we've had five different foreign ministers in the past seven years I've been in this role. That's significant transition. Having an overarching, multi-year strategy would mean that there would be some continuity on key human rights files. We wouldn't be reinventing the wheel with every transition. It's certainly critical to have a human rights strategy for that reason. It's also in order to create a sort of yardstick or benchmark to assess the minister's actions and activities with respect to human rights. That, I think, will be very critical.

I would just make a final point, if I have the time.

I know there's been a conversation around “prisoners of conscience” and the framing of the language around the human rights reporting. I agree with Alex Neve in terms of the language being about prisoners who are being detained in violation of international law. I think that's a much broader definition, which would also capture the two Michaels who were detained in China, for example. It would capture Canadian Iranian dual nationals and others who are detained on trumped up espionage, terrorism or treason charges who are not necessarily prisoners of conscience—they may just be ordinary engineers, doctors, etc.—but are dual nationals and are then detained. I think a larger, over-encompassing definition would be much more effective.

The Chair: Thank you. That concludes this session.

Allow me to thank Mr. Turcotte, who is here in person, as well as Mr. Browder and Ms. Deif. We're very grateful for your time and testimony. Our apologies that this particular session was truncated because we had some votes in the House.

On that note, let me thank you again. We're looking forward to perhaps having you back at committee very soon. Thank you.

For the members, I just wanted to say that on Tuesday, April 18, which is the first session when we get back, we are having clause-by-clause consideration of Bill C-281.

I was wondering whether it's the will of the committee to adjourn.

Some hon. members: Agreed.