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Chair: Mr. Ali Ehsassi



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• (1110)

[English]

The Chair (Mr. Ali Ehsassi (Willowdale, Lib.)): I call the meeting to order.

Welcome to meeting number 59 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 by using the Zoom application.

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

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 do mute yourself when you are not speaking.

Interpretation for those on Zoom is at the bottom of your screen, and you have a choice of either floor, English or French. Those in the room can use the earpiece and select the desired channel. I will remind you that all comments should be addressed through the chair.

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 (Sergei Magnitsky Law), the Broadcasting Act and the Prohibiting Cluster Munitions Act.

It is now my pleasure to once again welcome our officials.

From the Department of Foreign Affairs, Trade and Development, we have Ms. Marie-Josée Langlois, director general, strategic policy branch; Mr. Jeffrey Marder, executive director, human rights and indigenous affairs; and Ms. Ashlyn Milligan, acting executive director, non-proliferation, disarmament and space. As well, from the Department of Canadian Heritage, we have Ms. Amy Awad, senior director, marketplace and legislative policy.

I should also add that as of 12 o'clock we will have, from the Department of National Defence, Major-General Paul Prévost, director of staff, strategic joint staff, who will be joining us virtually by Zoom.

I will now open the floor in relation to amendment G-1.1, which was under consideration when we last adjourned on Tuesday, April 18, 2023.

(On clause 3)

The Chair: I have Mr. Oliphant.

Hon. Robert Oliphant (Don Valley West, Lib.): I can continue, then, in conversation on that amendment.

I think Mr. Bergeron raised an important point to say that the Standing Orders are the Standing Orders and that what happens if we were to pass G-1.1 is that we would essentially nullify that section, and it then would be simply the Standing Orders that would prevail. I think that's precisely true. I think he's made the point about why we're trying to do this, and I guess there still needs to be made—for me—an argument that this activity is somehow sequentially different from every other activity we do as a committee in terms of requesting government comments, reports, etc., or that any other committee does on very important work in the House of Commons.

I would be fine either way to defeat the actual clause that puts in these unusual requirements or accept ours, but I think he's absolutely right that indeed this is nullifying the difference and that the Standing Orders are Standing Orders. Through time, I think the Standing Orders have been tested by different governments and different opposition parties and have proven themselves to work.

I would think that if a case is being made that says there's an urgency about this or that there's a simplicity about it, it could be either one. It could be either that it's more urgent than any other work we do—that case could be made—or it could be argued that it's simpler. We've heard from officials that in fact it's not simpler, and that the burdens to attest for these sanctions issues are high, and we want due diligence to be done, because sanctions, if they are mistaken, have life-threatening consequences for individuals. We want to make sure our sanctions regime, which is already strong, is robust and works. We also want to make sure that when we do put sanctions on people, they're the right people at the right time doing that.

That's why I would still support our amendment that says the minister “must table a response”—it could even be subamended to a complete response or a robust response—“in accordance with the Standing Orders of the House of Commons or the rules of the Senate that apply to government responses to committee reports”.

As I said, I'm agreeing with Mr. Bergeron that this does nullify that section, but I think it's important to nullify it either through an amendment or through defeating the clause.

Thank you.

The Chair: Go ahead, Mr. Genuis.

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

I'll be relatively brief. I think we had a lot of this discussion at the last meeting, but I'll just reiterate.

I appreciate Mr. Oliphant's frankness in saying that yes, the intention of this government amendment is to gut this portion of the bill. I have a couple of comments about why we think this section of the bill is important.

Foreign policy in general is an area where the executive has, and should have, a wide degree of discretion—more discretion, I would argue, than in many other policy areas. I think we have to reflect on what some of the reasonable constraints on that discretion would be.

I think one of them is in the case of sanctions. The government decides on sanctions; Parliament doesn't decide. The government decides on sanctions. Many countries around the world have tried to develop mechanisms for parliamentary committees or for groups of parliamentarians to be able to have trigger mechanisms or other kinds of mechanisms for exercising effective accountability over the government's decisions around sanctions. I think it makes sense, in a parliamentary democracy, to have the required discretion on the part of the executive but to have some kinds of mechanisms.

This is a parliamentary trigger mechanism that preserves the discretion of the executive, but it allows a parliamentary committee to effectively nominate someone for sanctions. It requires a robust response that gives reasons for the sanctions having been or having not been applied, and it requires that response regardless of prorogation or dissolution. These are mechanisms in terms of accountability and response that are stronger than the existing Standing Orders, and they make sense in the case that the government has broad levels of discretion.

I have a draft amendment that I would like to move if Mr. Oliphant's amendment is defeated. That draft amendment would deal with some of the precision concerns around timelines as well as around ensuring that information that would tip people off isn't disclosed in advance of sanctions being made, so to speak. My amendment could be subamended at that point.

I think having a parliamentary trigger that uniquely applies in a foreign affairs issue of sanctions, an area where governments have broad discretion, is consistent with what our allies have done in terms of Magnitsky sanctions. There's a congressional trigger in the United States, for example. I think it preserves the accountability role of Parliament in an area where there is, and should remain, broad executive discretion.

I'm opposed to the amendment as said.

• (1115)

The Chair: Thank you, Mr. Genuis.

We will now go to Ms. McPherson.

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

I just wanted to say that I think today we should come to this work with the idea of getting through some of the important amendments that have been brought forward. I know that everybody comes with that idea, so it's just to try to put that in the frame of our work.

I actually am going to support this amendment, for the simple reason that I believe that Standing Orders are in place for a reason, that there is some value in keeping the Standing Orders. I think it's a reasonable thing for us to respect that.

I agree with Mr. Oliphant that all committees do very important work. All committees have very important things that they want to bring forward. I don't think there needs to be a different reality for this work.

I say that, knowing that I am deeply worried about our sanctions regime and that I have brought forward a study to have this group look at the sanctions regime. I don't think the enforcement of our sanctions regime is particularly robust. I don't think it is working particularly well in this country. I do have concerns about it.

That being said, I think respect for the Standing Orders, for me, is the rationale that I will bring to this amendment.

The Chair: Thank you, Ms. McPherson.

We will now go to Mr. Lawrence.

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

We heard testimony from, and had discussions with, some of the leaders in the world with respect to humanitarian law and also specifically with respect to the Magnitsky act—and I refer to Bill Browder, Marcus Kolga, among others—who have said repeatedly that this government has failed to put in place the Magnitsky sanctions. It's just the reality of the numbers. I believe it's zero in the last five years. They also commented, strenuously, that this was something they would support.

Clearly the government is failing to put in the Magnitsky act. If we just rely on the Standing Orders, we know what will happen. Human rights violators around the world will continue to be able to avoid these sanctions. Even when SEMA sanctions are put in, they're not enforced. If we keep going along this way, we'll just be, in fact, putting in place the definition of “insanity” and we will continue to keep doing the same things while expecting different results.

The Chair: Thank you.

We now go to Mr. Oliphant.

• (1120)

Hon. Robert Oliphant: I would just add that we will be having a scheduling meeting, and I actually think that while the Senate is doing work on sanctions, this committee should do work on sanctions as well. I think that our regime is robust, and in defence of our government's work on sanctions, when the Magnitsky act was signed into law, SEMA—the Special Economic Measures Act—was also strengthened concurrently. In the practical aspect of working with our allies and like-minded countries on sanctions, the burden for us to be able to do the sanctions under SEMA is actually easier, we're finding, than Magnitsky, so that's one of the reasons we do that.

However, I will concur with Ms. McPherson that this committee should take some solid time on sanctions and come up with recommendations on both their application and their enforcement. Let's get some real data and let's get a way of doing it.

Until we do that, I would say that it would be premature to do this kind of a motion and that we can reconsider some of these issues when we do that study and make recommendations on it to the House.

Thank you.

The Chair: Go ahead, Mr. Genuis.

Mr. Garnett Genuis: Chair, I am going to come back in on this, just because I think some of the arguments are discordant with the reality.

There is nothing not respectful to the Standing Orders about passing legislation that creates a parliamentary trigger. It doesn't attempt to nullify the Standing Orders or deny the authority of the Standing Orders. It creates additional reporting obligations for the minister, and there are all kinds of places where statute creates additional reporting obligations for the minister that go beyond what is required in the Standing Orders. In particular, this measure seeks to apply in cases where the Standing Orders would not apply, such as during a prorogation.

We welcome upcoming discussion and study on sanctions, but surely it should be apparent on faith that having greater accountability to Parliament in the process of responding to recommendations around sanctions, and doing what other countries have done in having a parliamentary trigger, is part of how we ensure effective accountability to Parliament for sanctions.

For members who believe that the sanctions regime is not operating in an optimal fashion right now, one simple way we can address that is by requiring stronger reporting to Parliament around sanctions. This doesn't preclude any of that subsequent work, but studies are times when committees can explore issues and make recommendations to governments. It is when we review legislation that we exercise the hard power of a committee.

We could make a real difference here by adding reporting requirements that would, I think, push the government to do more in terms of sanctions. They would push not just “the” government but any government to do more in terms of sanctions. These trigger mechanisms would provide greater accountability to Parliament when a future government is in place.

This is the goal of this legislation, fundamentally: to strengthen the democratic architecture around human rights issues and give Parliament more tools to be informed of and respond to government decisions around sanctions and other human rights issues. I think if this government amendment is passed, some of the folks who are members of the government today may in the future say that they wish they had this tool available in order to hold future governments to account and to encourage the use of sanctions.

We could have a long discussion about SEMA versus Magnitsky sanctions, and I suspect we'll have some of that discussion in the upcoming study, but to have this parliamentary trigger mechanism gives the government wide discretion to continue to choose whether they want to use SEMA or Magnitsky, or not use anything, in a particular case.

Again, that accountability reporting measure will be strengthened by this, and that's again why it's important. It would be disappointing to see this part of the bill gutted, and I think many of the people who follow these issues and engage on sanctions issues will be disappointed if that's the result.

I'll leave it there.

The Chair: Thank you.

We now go to Ms. McPherson.

Ms. Heather McPherson: I just want to ask if Mr. Genuis could outline exactly what his amendment would do.

Mr. Garnett Genuis: Just to clarify, are you wondering about my amendment? I'm not proposing a subamendment. I have a subsequent amendment that I—

• (1125)

Ms. Heather McPherson: Yes, I'm sorry. It won't go forward if this passes.

Mr. Garnett Genuis: Yes, exactly. I will not be able to move this amendment if Mr. Oliphant's passes, but the draft amendment that I have is CPC-4.

First of all, there was a concern raised about whether the existing provisions would create an obligation for the government to provide information about sanctions that have not yet been made—

Hon. Robert Oliphant: On a point of order, I believe it is out of order to discuss a potential amendment that hasn't been moved.

Mr. Garnett Genuis: On this same point of order—

Ms. Heather McPherson: I can ask him what his intention is.

Mr. Garnett Genuis: Yes. On the same point of order, we're debating whether or not to pass an amendment that would preclude the presentation of a subsequent amendment. I think it's reasonable for folks to be aware of the alternatives. I think it's relevant.

The Chair: Thank you, Mr. Genuis.

Go ahead, Mr. Oliphant.

Hon. Robert Oliphant: I think that the discussion can take place, but it should take place outside the meeting. It would mean that if somebody wanted to suspend the meeting for a moment and have that discussion, I think that would be appropriate if people wanted to hear what.... I think that to keep the flow of business working the way that amendments follow from amendments and to keep this order going, it would be best if that happened.

I understand Ms. McPherson's desire to know. I would like to know too. I think we have it in our package, CPC-4.

Ms. Heather McPherson: I just want to get some of his intent. I can ask him to provide his intention without asking about the....

The Chair: Does anybody want us to suspend for five minutes?

No?

Mr. Garnett Genuis: I don't think we need to suspend. The question is if this is relevant to the discussion. I think it's relevant to the discussion of whether or not we pass....

The Chair: Absolutely. That's understood.

Mr. Garnett Genuis: Okay, perfect.

My intention is, first of all, that the concern was raised that line 15 says, "advising the committee whether or not the order or regulation is to be made". Ms. Bendayan had pointed out, and I agreed with her reasoning, that it was important not to foreshadow sanctions that are coming or not coming. I will propose to replace that with "whether or not the order or regulation has been made and". It will continue setting out the reasons for the decision. We're not asking the government to say that we're thinking about applying this sanction in this case. Rather, we're asking the government to say that we did sanction this person and here's why, or we didn't sanction this person and here's why. I think that addresses an important concern that was raised during the discussion on it.

The other issue is the proposed 40-day time parameter has been flagged as a concern by members of the government. We certainly want to be reasonable around that. The change I'm proposing is to just eliminate the reference to 40 days. It would be revised to read, "The response must be tabled in the Senate or the House or in both Houses of Parliament, as the case may be, within the time limit specified by the committee."

Obviously, any time a committee does anything, some degree of consensus is required in the process, or usually there is. We're talking about a case of a committee passing a motion that makes this recommendation. My amendment preserves the fact that that information needs to be provided with reasons that a decision was made one way or the other, and with the requirement that that information be provided in the event of prorogation or dissolution. These are elements that the Standing Orders don't cover, and in the case of prorogation or dissolution, that the Standing Orders could not cover. A

parliamentary trigger like this could only be created through legislation. It could not be created by amending the Standing Orders, because it seeks to require information from the government in a case where they do not apply.

My amendment seeks to solve the concerns that were raised in good faith by some members of the committee, but not to use those concerns as the basis for throwing out the parliamentary trigger mechanism entirely.

The Chair: Ms. McPherson is next.

Ms. Heather McPherson: I don't know how to ask this question....

The Chair: Thank you.

Go ahead, Mr. Oliphant.

Hon. Robert Oliphant: I feel like this is coming to a close, but because there are Canadians and perhaps Venezuelans watching, I just want to make sure that people are aware that Magnitsky sanctions have been used by the Government of Canada. We can provide a list to the members of the committee at some point in the future. I think that's important to know. Thank you.

• (1130)

The Chair: Thank you, Mr. Oliphant.

Go ahead, Ms. McPherson.

Ms. Heather McPherson: I have a bit of a problem. The problem is that I don't think either of the suggestions meets the needs of this legislation.

I think my recommendation would be to suspend for five minutes, if possible, so that I can ask for some clarity from one of the parties. I'm sorry to do this.

The Chair: Absolutely.

We'll suspend for five minutes.

• (1130)

(Pause)

• (1150)

The Chair: I call the meeting back to order.

We now return to G-1.1.

Are we ready to vote?

• (1155)

Mr. Garnett Genuis: Maybe before we vote, Mr. Bergeron's.... I want to make sure that we are....

Let me offer some further commentary here. I was thinking that....

Actually, I'm done. Thank you.

The Chair: We're returning to G-1.1.

(Amendment negatived: nays 6; yeas 5)

The Chair: We now go to CPC-4.

Go ahead, Mr. Genuis.

Mr. Garnett Genuis: I'm going to move CPC-4.1, which is different from CPC-4 in your package.

Following discussion among the parties, I propose the following amendment. It would be, first of all, to replace line 15 on page 2 with "whether or not the order or regulation has been made and". That is part (a) of the original CPC-4.

I am then proposing.... I think the cleanest way to do this is to read what the full revised section would be. This is replacing subsections (2) and (3) of section 5.1 with the following: "The response must be tabled in the Senate or the House of Commons or both Houses of Parliament, as the case may be, within the timeline specified in the Standing Orders or rules of the Senate for responses to committee reports, and must be posted in a prominent location on the website of the Department of Foreign Affairs, Trade and Development on the day after it is tabled."

This would be the new proposed subsection (3): "If Parliament is prorogued before the response is tabled, the Minister must post the response in a prominent location on the website of the Department of Foreign Affairs, Trade and Development within the time limit referred to in subsection (2) regarding the tabling of the response. If Parliament is prorogued or dissolved before the response is tabled, the response must be tabled as soon as feasible after the commencement of the next session of Parliament."

Those are the revised sections. The text substantively replaces the previous timelines, which were 40 days or another timeline specified by the committee, with the incorporation by reference of the timelines that are used by the House or the Senate. It eliminates the requirement to post the government response during dissolution, and it instead says that the response would be tabled "as soon as feasible after the commencement of the next session of Parliament" in the event of a dissolution.

I think that compromise effectively achieves, more or less, what we more or less want.

The Chair: Go ahead, Mr. Oliphant.

Hon. Robert Oliphant: I'm generally in favour. However, as it was read, I have one question with respect to the last lines, which would be the current lines 29, 30 and 31.

You said that if the Parliament is prorogued or dissolved, the response must be tabled as soon after the commencement.... I think that's what you said.

Mr. Garnett Genuis: Yes, that last sentence would read "If Parliament is prorogued or dissolved before the response is tabled, the response must be tabled as soon as feasible after the commencement of the next session of Parliament."

Hon. Robert Oliphant: My question is, which government would respond? Would it be the previous government?

When you say, "the response".... A response is prepared by one government. There's an election. Potentially after two or three more elections, there's a new government, which—

Ms. Heather McPherson: It's the Canadian government that will respond to it.

Hon. Robert Oliphant: Yes. It says, "the response", but the problem is there have been....

We'd have had two governments, and they could have very different responses. Is it a new response that would be tabled by a new government, or does the old response last until...?

You're saying that dissolution doesn't matter in this sentence. That's my problem. I think I would prefer just "prorogation" in that second line.

• (1200)

Mr. Garnett Genuis: If everyone is amenable, we could just say "a response must be tabled", instead of "the response". We can retrospectively revise what my amendment was, provided it solves the problem. I don't think it's a huge problem.

Hon. Robert Oliphant: I would like to get help from the legal officials, because when Parliament is dissolved, Parliament is over. People get to speak. They get a new government, a new Parliament, new committees and new everything. I think it's trying to dictate from the grave, as I would say. The problem is that you shouldn't dictate what is going to happen next from the grave.

That committee report, if it happens in another committee.... It's not necessarily this report. If this becomes a standard, that report could actually trigger an election, possibly. You never know what committee could follow this same process. A committee gets a report and it triggers an election because of what it says. The new government is supposed to report on it, yet the new government might say, "We don't even want to go near there, because we're a different government." The new Parliament might not want to.

I would prefer to say "dissolution" the first part and then say "prorogation" in the second part. That, to me, is different from dissolution. I have a little trouble with it.

The Chair: Go ahead, Mr. Chong.

Hon. Michael Chong (Wellington—Halton Hills, CPC): "Governments" don't correspond to "Parliaments". You can have a change in government within a Parliament. Many of our rules require a government response. Government doesn't have to correspond to a Parliament, and it doesn't often correspond to a Parliament.

Mr. Garnett Genuis: My amendment is on the floor as it was proposed.

Hon. Robert Oliphant: I would then offer a subamendment, striking the words "and dissolution" from that final sentence. That would be a subamendment.

Mr. Garnett Genuis: I have a point of order. It would be "or dissolved". Those would be the words you want to strike.

Hon. Robert Oliphant: Yes, prorogation.... Take out "or dissolved".

The Chair: That's fair enough.

Do we want to vote on Mr. Oliphant's subamendment? Is there unanimous consent for the subamendment?

(Subamendment negated: nays 6; yeas 5)

The Chair: As the subamendment was defeated, we now go to the amendment.

(Amendment agreed to: yeas 11; nays 0)

The Chair: Next, we have to determine whether clause 3 as amended shall carry. Do I have unanimous consent?

(Clause 3 as amended agreed to: yeas 11, nays 0 [*See Minutes of Proceedings*])

(On clause 4)

The Chair: We now go to clause 4. We have G-2.

Go ahead, Mr. Zuberi.

• (1205)

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

I'd like to move amendment G-2. It's on the Broadcasting Act. We believe this amendment will make the bill better.

Mr. Chair, I'd like to get a word on the scope, first off, if you can.

The Chair: Clause 4 of Bill C-281 amends the Broadcasting Act to add restrictions in relation to broadcasting licences to broadcasting undertakings subject to influence by a foreign national or entity that has committed acts or omissions that the Senate or the House of Commons has recognized as genocide or that is the subject of an order or regulation made under section 4 of the Justice for Victims of Corrupt Foreign Officials Act or section 4 of the Special Economic Measures Act.

The amendment provides for new understanding of what the term genocide is as a foreign state, or a national of, or a person in a foreign state that has been found to have committed genocide by a court or tribunal as specified in the amendment. The amendment also provides for mechanisms for the commission to determine what influence it is. These are new concepts not envisioned in the bill when it was adopted by the House at second reading.

House of Commons Procedure and Practice, third edition, states the following on page 770: “An amendment to a bill that was referred to a committee after second reading is out of order if it is beyond the scope and principle of the bill.”

In the opinion of the chair, and for the above-stated reason, the amendment introduces new concepts that are beyond the scope of the bill. Therefore, I rule the amendment inadmissible.

Go ahead, Mr. Oliphant.

Hon. Robert Oliphant: Could I ask for a...? To simply state that it is “beyond the scope” raises the question of exactly how and where it's beyond the scope. I would like a comment from the clerk with respect to exactly where it is. Word by word, I'd like to understand this a little bit better.

It's actually confusing for me. I listened to the reason, and I don't think it's really clear where the problem is.

• (1210)

The Chair: I'm advised by the clerk that because a decision has already been made, the only way you can vary that is if you challenge it.

If you like, I can read it one more time.

Hon. Robert Oliphant: I'm not asking the decision to even be challenged yet. I'd like to understand—

The Chair: That's the only option available to you.

Hon. Robert Oliphant: I can't ask the chair to explain his decision...?

The Chair: No. According to the legislative clerk, you can't do that.

Hon. Robert Oliphant: It just makes no sense to me—

Some hon. members: Oh, oh!

Hon. Robert Oliphant: —because I read it and, to me, it's clarifying the language. It's not overturning it. It's not reversing it. It's not undermining it. It's actually extending it and making it more specific, which I think is the purpose of an amendment.

The Chair: I think it's pretty clear. It says that it provides a new understanding of what the term “genocide” is.

Hon. Robert Oliphant: We don't change anything about genocide. We say “genocide” and we've added:

by a court or tribunal in Canada, the International Court of Justice, the International Criminal Court or a court or tribunal established under the authority of an international organization of states

It has done that. I understand that. That is the world's accepted understanding of how genocide is determined.

[*Translation*]

Ms. Rachel Bendayan (Outremont, Lib.): I have a point of order, Mr. Chair. Can we hear the clerks' view from them directly?

[*English*]

The Chair: I've been advised by the clerk that this is precisely the problem. Previously, it would just be taken as fact that genocide has occurred, and now we're adding these new bodies that would determine if the genocide has occurred.

Hon. Robert Oliphant: Okay, but is genocide to be—

[*Translation*]

Ms. Rachel Bendayan: Mr. Chair, I have a point of order. Can we hear from the clerks, themselves, on where they stand?

[*English*]

The Chair: Yes, I did try that, but now I see some leniency. He says if you like, yes, he will speak to it.

Mr. Philippe Méla (Legislative Clerk): Thank you, Mr. Chair.

In the bill, there is one way of recognizing genocide. It's specified in the bill that a foreign national or an entity

has committed acts or omissions that the Senate or the House of Commons has recognized as genocide;

It's basically that Parliament, the Canadian Parliament, has recognized that either a person or an entity has committed genocide. It's not necessarily based on a decision of the courts or the amendment basing the definition of genocide on a court finding someone guilty of genocide. That's how it goes beyond the scope of the bill.

Mr. Sameer Zuberi: Thank you for that explanation.

I'd like to move an amendment to clause 4 with relation to the Broadcasting Act and to amend subsection 22(1)—

The Chair: Mr. Zuberi, could you just stop for a second?

Mr. Sameer Zuberi: Yes. I could stop for a second.

Hon. Robert Oliphant: I am considering challenging it because I am reading the definition of genocide in Canada. Under Canadian law, it says that:

genocide means an act or omission committed with intent to destroy, in whole or in part, an identifiable group of persons, as such, that at the time and in the place of its commission, constitutes genocide according to customary international law or conventional international law or by virtue of its being criminal

I would say that by harmonizing this bill with other laws in Canada, we are not going outside the scope of the bill. We are actually attempting to harmonize it, because there is nothing in Canadian law that says the determination of genocide....

We can make a motion in the House about genocide, but for an act to have effectiveness in the world, it needs to follow Canadian law. Right now, under Canadian law, the Parliament does not determine genocide. We actually have a set of conventions that Canada has signed and agreed to, and there are international laws. We do not determine cases of genocide in the House of Commons: We opine on them and we make statements about them. That's what we do as parliamentarians. To actually have that determination of genocide have effect in our world, in Canada, as a country, successive governments and successive Parliaments have said that it needs to be "according to customary international law or conventional international law or by the virtue of its being criminal".

Criminality in Canada, the last time I understood it, was still determined by a court of law, not by Parliament. Parliament writes laws, but we don't determine whether or not a law has been broken. That's why we have three branches of government. That's why we have an executive branch, a legislative branch and a parliamentary branch.

I think it's very important for us to say that this amendment to the law is actually in scope because it is following a harmonization of law. As such, I would challenge the chair's ruling on that.

● (1215)

Mr. Garnett Genuis: I have a point of order on that, Mr. Chair.

We had arguments that were made that I think are outside of the rubric we're supposed to be on.

The Chair: [*Inaudible—Editor*] challenge it just as to [*Inaudible—Editor*]

Mr. Garnett Genuis: That was actually the point I was making. There is not supposed to be debate on it. Let's vote on it.

The Chair: Okay. Let's vote on the challenge.

The Clerk of the Committee (Ms. Ariane Gagné-Frégeau): It is yeas six, nays five.

[*Translation*]

Ms. Rachel Bendayan: I may be wrong, but I think the clerk miscounted the votes. Can we have a recount, please?

[*English*]

The Clerk: It is six nays, five yeas. The ruling is overturned.

(Ruling of the chair overturned [See *Minutes of Proceedings*])

The Chair: It's overturned, yes.

He can't amend it. I think someone else has to amend it.

Hon. Robert Oliphant: I have a point of order.

I do believe that what now happens—and it can be confirmed with the clerk—is that because your ruling was overturned, we now debate G-2 as an acceptable amendment. It still may be defeated, but at least it's now on the floor to be debated.

The Chair: I think Mr. Zuberi indicated he wanted to amend it.

Mr. Sameer Zuberi: No, actually, let's start with this one.

Ms. Heather McPherson: I would like to add to the bill.

It's in paragraph 1.1(a), where it starts with "a foreign state". I will read it out to you:

a foreign state or a national of or person in a foreign state, as those terms are defined in section 2 of the Special Economic Measures Act, that is the subject of an order or a regulation made under section 4 of that act or that has been found to have committed genocide by

Here is where I'm going to add "the Senate, the House of Commons, or both Houses of Parliament,".

Then it goes back to:

a court or tribunal in Canada, the International Court of Justice, the International Criminal Court or court or tribunal established under the authority of an international organization of states,

● (1220)

Mr. Garnett Genuis: I want to speak very strongly in support of Ms. McPherson's subamendment. We heard some sort of pre-argumentation around this issue by Mr. Oliphant, so I want to respond to some of that, as well.

The process by which Canada has come to recognize genocides has been through votes of the House of Commons. We place a great deal of significance in the debates and the votes around them. The recognition of genocide entails legal obligations for us as a country under the Genocide Convention.

There are many barriers and challenges that prevent cases of ongoing genocide from being adjudicated by judicial bodies. There are mechanisms by which states can interfere. There are states that may not be party to some of the courts that are referenced. We've seen this tactic in other countries, where the argument is made, "Well, we can't act on genocide unless genocide is recognized by a court." A court needs to recognize the genocide, but then there isn't a court that has the tools and the capacity to recognize genocide in a particular case, so they just do nothing.

That's not acceptable to me. I don't think that should be acceptable to honourable members. We need to have a process whereby the people's representatives can make that determination so that the determination has meaning and value.

The implication of Mr. Oliphant's arguments is that when the House of Commons recognizes a genocide, it's kind of just a group of people making a statement. He's saying, yes, that's his view, but that's not my view. My view is that when the people's representatives say that a genocide is happening in the world—

Hon. Robert Oliphant: On a point of order, Mr. Chair, could I get a copy of... Right now we're dealing with an amendment to our amendment—a subamendment from the NDP—that I like, but I don't have it in front of me. I don't think it's been given to us in a package, unless I'm missing an NDP-dash-something.

Mr. Genuis is talking to our amendment, but we need to be talking about the subamendment.

Mr. Garnett Genuis: I was. I was speaking in favour of the subamendment.

Hon. Robert Oliphant: Okay. I just need to have a copy of it, though, before I can actually listen to it clearly.

Mr. Garnett Genuis: I've made my point, so I'll conclude my remarks there unless people have questions or follow-ups. Recognition of genocide by the House or the Senate should mean something. This is a way of enforcing that this is a meaningful recognition, and not just a group of people saying something.

Hon. Robert Oliphant: I'm reading the Crimes Against Humanity and War Crimes Act....

I'm still confused by the NDP amendment. I'm struggling to relate it to the amendment that's on the floor. I just need some help.

• (1225)

The Chair: I will suspend for two or three minutes.

• (1225)

_____ (Pause) _____

• (1240)

The Chair: Friends, let's resume. Everyone has seen the subamendment to this amendment. Should we put the subamendment to a vote?

Hon. Robert Oliphant: I think where we're at is that we're going to seek agreement that we stand this section of the bill again and move now to clause 5. Because we don't all have responsibilities for the area, which is really Canadian Heritage, and we have critics involved in that who are not us, we want to take that back. I think we are working towards a solution. I'm getting this part cleaned up, probably even in scope.

We move that we stand this section. Do we have unanimous consent that we stand it?

The Chair: Yes, and we move to the next one.

[Translation]

Mr. Stéphane Bergeron (Montarville, BQ): Do we need unanimous consent to go to the next clause? Why would we even go to the next clause, though? Would it be to give the government an opportunity to put forward a new amendment, one that would respect the spirit of the legislation, since it challenged your ruling that this amendment does not respect the spirit of the legislation? The government will have to live with its decision. We have to stay on this one.

[English]

The Chair: No, we're just simply asking for unanimous consent to move to the next clause.

[Translation]

Mr. Stéphane Bergeron: That's what I just said. We don't agree to moving to the next clause. We have to stay on this one.

[English]

The Chair: Do you want to continue with the same?

[Translation]

Mr. Stéphane Bergeron: Absolutely. Too bad, the government will have to live with its decision.

[English]

The Chair: That's fine. You don't need to yell at me. It was the will of the committee and that's what was agreed to, but if you want to keep debating this subamendment, absolutely.

• (1245)

Hon. Robert Oliphant: Mr. Chair, I think this is a point of order. It's that we will continue on clause 4 on the Broadcasting Act, and we're at the subamendment to the amendment.

The Chair: There wasn't unanimous consent to move to the next clause.

Hon. Robert Oliphant: There wasn't. I don't think Mr. Bergeron agreed.

The Chair: Yes, exactly, so we can't do so.

Hon. Robert Oliphant: I'm saying that we stay at the Broadcasting Act, at clause 4, and we're on the subamendment to the amendment.

If I seek unanimous consent to withdraw the amendment, does that then withdraw the subamendment, or do we need to first withdraw the subamendment, then withdraw the amendment, and then move towards entertaining another motion?

We will tell you that we will have to keep debating that because it is not yet finalized. We are still working out wording that we can get agreement on about how we essentially fix clause 4 on the Broadcasting Act.

I'm just looking for how we move this most expeditiously. We can see if we can withdraw the subamendment and then withdraw the amendment, but if we don't let it stand and move to cluster munitions, we're going to waste more time, because if we move to cluster munitions now, we may be able to get it done and give all parties time to figure out how we get an improvement to clause 4 that is more agreeable. This is my problem.

We can go back, as Mr. Bergeron wants, to the Broadcasting Act—we'll have to—but then we have to deal with the subamendment and the amendment and perhaps start wordsmithing an option three. However, I think some members have to go back to their spokespeople and work on this with their Heritage critics.

The Chair: I've just been advised that if you want to do so, you have to bring a motion, a motion that is obviously debatable. Do you wish to bring in a motion?

Hon. Robert Oliphant: A motion to do what?

The Chair: It would be a motion to move to the next clause. You can do so.

Hon. Robert Oliphant: Without unanimous consent, I can do the motion?

The Chair: Yes.

Hon. Robert Oliphant: Then it's not only by UC. I can do a motion.

The Chair: Yes.

Hon. Robert Oliphant: I would then move a motion for the sake of time and to try to be more efficient. Because I have the floor, the first thing I'm going to move—

The Chair: Go ahead, Mr. Bergeron.

[*Translation*]

Mr. Stéphane Bergeron: First, I don't think Mr. Oliphant is moving what you suggested. Furthermore, I think it's odd, to say the least, for a committee chair to make a suggestion regarding a motion to a member of the committee.

Second, Mr. Oliphant did not move what you suggested he move. He was proposing that the NDP subamendment be withdrawn by unanimous consent and that government amendment 2 be withdrawn by unanimous consent. If you don't mind, then, I would like us to first focus on Mr. Oliphant's motion to withdraw the NDP subamendment and then the government amendment. After that, we can talk about moving to the next clause.

[*English*]

The Chair: He's not thinking of withdrawing it. This is a question of whether we could provide more time for everyone to come to an agreement on what is acceptable and then determine that it is within the scope. It's just a question of literally moving on to the next clause for consideration.

[*Translation*]

Mr. Stéphane Bergeron: What Mr. Oliphant was proposing before you suggested he move a motion to go to the next clause—which is odd, to say the least—was withdrawing, by unanimous consent, the NDP subamendment and government amendment 2.

For that amendment, the government challenged your decision. Let's talk about that first. Then we can discuss the possibility of moving to the next clause.

[*English*]

Hon. Robert Oliphant: I have the floor, but I'll make a point of order, because there's a suggestion from Mr. Bergeron that I got my amendment from you, Mr. Chair. I didn't.

The reality is that the legislative clerk suggested what would have to happen to effectively move to the next section, because my real goal was to not waste committee time and to move to clause 5 on the Prohibiting Cluster Munitions Act. That would then mean that we'd have 10 minutes left and we could maybe get something done on munitions. The reality is that we're not going to get the Broadcasting Act part done now because we're going to have to speak to other critics about that.

That's what that was about. I believe the clerk advised the chair. The chair then advised how that could happen, without telling me what motion to make.

● (1250)

[*Translation*]

Mr. Stéphane Bergeron: What I am trying to tell you, Mr. Oliphant, is that, if there is unanimous consent to withdraw the NDP subamendment and your amendment, we could move to the next clause by unanimous consent.

[*English*]

Hon. Robert Oliphant: The problem with that is that if we withdraw the subamendment and the amendment, then we get to the main clause. It will be further amended and the amendment—

[*Translation*]

Mr. Stéphane Bergeron: That's not what I'm saying, Mr. Oliphant. What I'm saying is that, if we withdraw the NDP subamendment and your amendment, we can, by unanimous consent, move to the next clause, the one on cluster munitions.

[*English*]

Hon. Robert Oliphant: I think we would need unanimous consent to do that.

Either way, I'm not sure it matters whether we withdraw the subamendment and the amendment now or withdraw them later. They're going to, I suspect, be withdrawn—

The Chair: I think we're now engaging in debate.

We'll go to Ms. McPherson.

Ms. Heather McPherson: I'm not withdrawing my subamendment, so I don't know why that's the discussion.

The Chair: I know you're not. I never said that you were withdrawing it.

Ms. Heather McPherson: In fact, if we need to go forward, we can vote on it.

Hon. Robert Oliphant: I think I have the floor from earlier.

The first thing I would do with the floor is move that we request of the House an extension of up to 30 days for consideration of Bill C-281.

Mr. Garnett Genuis: On a point of order, Chair, can you confirm that it's in order to move a motion when we're debating a clause?

There's a subamendment on the floor. Is that right?

The Chair: It's a good point. Let me look into that.

Mr. Oliphant, you can't do so. If there's a motion already on the floor, you can't go and...

Hon. Robert Oliphant: The bill will need to be reported at the same time.

The Chair: No, it's just that after we're done with this clause, we—

Hon. Robert Oliphant: Can I move a motion that we stay this clause and move to the next clause?

The Chair: You can do so. I don't think you're going to get the votes, but—

Hon. Robert Oliphant: I think that is related to the clause we're on.

Mr. Sameer Zuberi: On a point of information, are we allowed to have unanimous consent to move this motion?

The Chair: Do you mean to move past the amendment?

Mr. Sameer Zuberi: It's an informational question.

The Chair: Yes, but there was no unanimous consent.

Mr. Sameer Zuberi: There was no unanimous consent.

The Chair: Mr. Oliphant was supposed to bring a motion—

Mr. Sameer Zuberi: There was a point of information. There was an informational question asked by the vice-chair around this. It wasn't that he opposed it; it was just that he asked an informational question. We haven't asked for unanimous consent yet on this motion.

Mr. Garnett Genuis: On a point of order, I think process-wise, you can always propose, if you have the floor, to adjourn the discussion that's currently going on. I think [*Inaudible—Editor*] House leader's office.

Hon. Robert Oliphant: I think that's a very helpful point.

Mr. Garnett Genuis: I always aim to be helpful.

Hon. Robert Oliphant: I'm going to move a dilatory motion. Because I have the floor, I am going to move that we adjourn debate on Bill C-281 at this time. It's a motion to adjourn debate.

This is, so people know, so that I can extend.

Thank you. Sometimes he's helpful.

The Chair: Is there unanimous consent?

Hon. Robert Oliphant: No. Just call a vote.

The Chair: Call the vote, please, Madam Clerk.

(Motion agreed to: yeas 5; nays 1)

The Chair: The meeting is adjourned.

The Clerk: The debate is adjourned.

The Chair: Yes.

• (1255)

Hon. Robert Oliphant: Mr. Chair, could I now move a motion that is not related to that clause, but simply move that we can...?

I want advice from the legislative clerk on this. Can I do up to 30 days, or do I do 30 days? Does it have to be a definitive period of time for an extension, or can it be up to 30 days?

The Chair: It's 30 days.

Hon. Robert Oliphant: It's 30 days.

I move that we request of the House of Commons an extension of 30 days for consideration of this bill.

The Chair: Is there unanimous consent?

No, there isn't.

You want us to put it to a vote.

Mr. Garnett Genuis: No, it's debatable. We are now in debate on Mr. Oliphant's motion. Okay.

I would like to propose to amend the motion from 30 days to 10 days, and I'll explain why.

I think we should get this bill done. The process is that we have 60 days to look at private members' bills, and it will be 60 days on Wednesday. For most of that time, we didn't deal with this bill. My view is that this committee should prioritize legislation, and we could have had much more time to get through all of this back-and-forth.

Unfortunately, this committee has chosen to put consideration of this bill to the very end of that timeline. The effect of that choice is that we are in an extreme rush now.

To be reasonable, I want to try to work with members and have some time for an extension, but to wait another 30 days, or up to 30 days, puts us in a position of delaying this important legislation. We're in a minority Parliament. Nobody knows what's going to happen. I don't want to create a situation in which the bill does not pass because of delays. I think 10 days gives us enough time to have the conversations, but I think we want to have the ticking clock here to make sure that it actually gets done.

We want to get this bill done, and a 10-day extension is enough, but not too much. I want to see the amendment pass.

The Chair: Mr. Genuis, I'm afraid I have to advise you that we can only go with 30 days. It's up to 30 days, of course, but you do not have the option of varying that—

Mr. Garnett Genuis: Ten days is up to 30 days.

What does the Standing Order say, Madam Clerk?

The Chair: Is it Standing Order 97.1?

If you're referring to Standing Order 97.1, it reads:

A standing, special or legislative committee to which a private member's public bill has been referred shall in every case, within 60 sitting days from the date of the bill's reference to the committee, either report the bill to the House with or without amendment or present to the House a report containing a recommendation not to proceed further with the bill and giving the reasons therefor or requesting a single extension of 30 sitting days to consider the bill, and giving the reasons therefor. If no bill or report is presented by the end of the 60 sitting days where no extension has been approved by the House, or by the end of the 30-sitting-day extension if approved by the House, the bill shall be deemed to have been reported without amendment.

Hon. Robert Oliphant: On that, I would say the motion probably is then in good order and the amendment would not be in order. However, I would say to the committee we will.... I would disagree with the member that things like the report on Ukraine, which we did take extensive time on, weren't important. It's not as though they were unimportant things this committee was doing, and it was even at the behest of his party that we moved on those issues, so there are things we have done.

On that, I think a 30-day request is reasonable; we should make an argument to the House that we need 30 more days. The whole committee has the commitment on this side that we will do everything we can to make sure that it happens sooner than 30 days. We have a subcommittee meeting now; we can look at our agenda and we can plan it out and in good faith, and we'll find a way to report on this as soon as possible, while giving every member the chance to make sure the bill is a good bill.

• (1300)

The Chair: Is there unanimous consent for that?

Mr. Garnett Genuis: Sorry, Chair, I have a point of order. Did you rule my amendment out of order?

The Chair: Yes.

Mr. Garnett Genuis: Okay.

I think, again, it's important for us to do this quickly. I think, frankly, we could still get it done by Wednesday and it would probably require extra meetings, but I want to see this bill pass.

Ms. Rachel Bendayan: Mr. Chair, this is not a point of order.

The Chair: Go ahead, Mr. Hoback.

Mr. Randy Hoback (Prince Albert, CPC): Mr. Chair, it's past one o'clock. I have another meeting to go to. I can't sit here and—

The Chair: Yes, but we have to deal with this motion. We can't just leave it—

Mr. Randy Hoback: No, we don't. I'm sorry. It's one o'clock and—

The Chair: Don't we have to deal with the motion?

We could leave the motion as is.

Hon. Robert Oliphant: Mr. Chair, the problem is that if we don't deal with this today to get it to the House in time with the report, we may miss the opportunity. That's why I think it's important

we get it done quickly. I would ask if you would consider calling a vote so we could defeat it or pass it.

The Chair: Can we call a vote? Let's call a vote.

(Motion agreed to: yeas 7; nays 4)

The Chair: Thank you very much for that.

Before we adjourn, there are several housekeeping matters.

Is it the will of the committee to adopt the report received on Friday, April 14, 2023, by the subcommittee in relation to the study of the current situation in Haiti?

Some hon. members: Agreed.

The Chair: It was agreed that the draft report be adopted.

Is it agreed that the report be entitled "The Human Rights Situation in Haiti"?

Some hon. members: Agreed.

The Chair: Is it agreed that the chair, clerk and analysts can be authorized to make such grammatical and editorial changes as may be necessary?

Some hon. members: Agreed.

The Chair: Is it agreed that pursuant to Standing Order 109, the committee request that the government table a comprehensive response?

Some hon. members: Agreed.

The Chair: Is it agreed that the dissenting or supplementary opinions be in Calibri 12-point font, left-aligned and single-spaced, and be submitted electronically, in both official languages, to the clerk of the committee no later than 5 p.m. on April 24?

Some hon. members: Agreed.

The Chair: Then there are two other things.

There's that the chair present the report to the House. Then there's the draft news report in relation to the recent sentencing of Vladimir Kara-Murza that was distributed this morning to the members. Is it the will of the committee to adopt it?

Some hon. members: Agreed.

The Chair: Last, is it the will of the committee to adopt the proposed budget in the amount of \$2,000 for the consideration of the main estimates 2023-24, which was distributed to all of you on April 17?

Some hon. members: Agreed.

The Chair: Thank you very much.

The meeting is adjourned.

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