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Chair

The Honourable Robert Nault

Standing Committee on Foreign Affairs and International Development

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• (1530)

[English]

The Vice-Chair (Mr. Dean Allison (Niagara West, CPC)): I call the meeting to order.

Pursuant to the order of reference on Thursday, April 14, 2016, and section 20 of the Freezing Assets of Corrupt Foreign Officials Act, which requires a statutory review of the act, I want to welcome everyone to our meeting here today. I want to also welcome those of you who are joining us via video conference from the east and west coasts.

Joining us from Switzerland but actually in New York today is Gretta Fenner, managing director of the Basel Institute on Governance. Gretta, welcome. We're glad to have you here today. We'll get your testimony very shortly.

Then, as an individual, we have Gerry Ferguson, distinguished professor of law, Faculty of Law, University of Victoria, via video conference from Victoria, British Columbia. Gerry, we're glad to have you here as well.

Our normal custom and procedure is to start with your opening testimony, and then we'll go around the room over the next hour to ask questions back and forth from the government and from the opposition, based on your testimony.

Mr. Ferguson, I'll have you start first. The floor is yours; we'll turn it over to you. We look forward to your testimony, and then we'll move over to Gretta after that.

Professor Gerry Ferguson (Distinguished Professor of Law, Faculty of Law, University of Victoria, As an Individual): Thank you very much for the invitation to be here. Since I'm a lawyer, it won't surprise you that I'm going to start with a disclaimer.

My disclaimer is that when I was initially asked to speak, I declined on the basis that I did not have any specific knowledge about the two acts that your committee is reviewing. When I responded in that fashion to your clerk, she persuaded me that you were interested in hearing from me because of my general interest and knowledge about global corruption. I just want to lay that disclaimer out to you. I'm not intimately familiar with the application of FACFOA or SEMA, which you are now about to review, but I do have a few comments on it as it fits into the larger picture.

I want to leave a main message with you. I'll start, however, by saying I have prepared a brief. The brief was just submitted this morning. It needs to be translated, so you don't have a copy in front of you. The clerk will be giving you that later. It's about 45 pages in

a PowerPoint style. I won't be able to touch on a lot of the detail today, but that information will be there.

I did also just want to mention in terms of detail that much of my knowledge on global corruption, asset recovery, and all matters related can be found in a two-volume book that I wrote just a year and a half ago and am currently updating for another release in January. That book is called *Global Corruption: Law, Theory and Practice*. It looks at global corruption largely from the international perspective and then compares Canada, the U.S., Britain, and the U.K. in terms of how we have or have not implemented our convention requirements.

I mention that book to you because it is about 780 pages, and there is a lot of detail in it. I designed it so it would be available to all interested parties. It is free. It's open access. It's on five websites, one of which is Transparency International Canada, and it was done under the auspices of the United Nations Office on Drugs and Crime, so it's available there as well.

Going back to what I want to say, my main message is that I think creating and maintaining an efficient, fair, and effective system for both freezing and ultimately returning corrupt foreign assets that are situated in Canada to lawful owners is obviously both a moral and international legal obligation. I believe that Canada has to step up its game and take those obligations more seriously.

Creating such a system—efficient, fair, and effective—is easy to say and I know difficult to create, but it's not impossible. I want to emphasize for you why I think it's so important that we have this effective system.

I start from a proposition. My main interest is global corruption, the largest topic. To me, it's a pernicious evil in our society. In my paper and my book I spend a lot of time talking about why global corruption is such a concern and what the devastating consequences are. One has to start by being convinced that, yes, it is a big problem.

The second point is that if we get to the point of accepting that global corruption is indeed a pernicious and devastating concept or activity or practice, what flows from that is grand corruption of the sort that you're interested in and I'm most interested in. Grand corruption can flourish when officials from these foreign countries can launder the proceeds of that corruption in other foreign countries and convert those proceeds into things such as real estate or luxury items in our country. You all are aware of the fact that there are certainly allegations of this happening substantially in the Vancouver region in the housing market.

• (1535)

My point here is that money laundering is really the lifeblood of corruption. It allows corruption, this grand corruption, to flourish. It seems to me that of maybe 10 things that are essential to grappling with corruption, one of those is that we have to try to choke out the personal profit and gain that arises out of this grand corruption. One of several important ways of doing so is creating this effective and efficient money-laundering and asset recovery law.

As I understand it, FACFOA is a very small but nonetheless important piece in the creation of an overall effective system for the recovery of assets. However, with respect, it seems to me that reviewing just FACFOA is like swatting a flea while ignoring the elephant in the room. FACFOA is important, but the real elephant in the room is global corruption and the absence of a fair and efficient way of attacking it from several points of view, including a good asset recovery system.

My hope is that you will find some room in your committee report of FACFOA and SEMA to convince other parliamentarians and the public of the fact that global corruption is indeed a devastating plague, with disastrous consequences far greater than most of us appreciate here in Canada, or I dare say worldwide.

There is indeed a pressing need to tackle global corruption on many fronts, including effective anti-money-laundering and asset recovery systems. I think Canada needs to seriously re-examine how well it are doing on both fronts. My assessment is that it are not doing well at all.

Finally, to me, one of the most urgent aspects of improving our asset recovery system is to move towards a beneficial ownership registry, just as the United Kingdom has in April of this year. We talk about returning assets, and I want to also ask the committee for some specific information about FACFOA and its success, which seems to me to be pretty small. The point is that if we are attempting to ascertain whether corrupt officials own property when 70% of that property is held in shell companies and we can not even ascertain who the true beneficial owner is, it's little wonder that we're not returning many corrupt proceeds.

If there's a point that leads directly into what you're doing, although it's clearly not in FACFOA, I think it's that Canada has to very seriously—as a few other countries are, England especially—create a beneficial ownership registry. It would be open to the public, but more importantly to investigative officers, to ascertain whether Mr. Gadhafi or somebody else actually owns that property in the name of company X. His name would not appear, and it would be deeply hidden.

The rest of my presentation really goes in that direction. I'm not going to go through it. However, the first part of my presentation tries to convince you that global corruption is indeed a very serious problem with disastrous consequences. I don't think the Canadian public appreciates that fully; hence there is less motivation on the part of the public, and hence on the part of our parliamentarians. That's the first part: trying to convince you of the importance of taking action against global corruption.

As I said, one of the very important pieces of taking action is creating a system that helps to prevent foreign corrupt officials from laundering their money through Canada, and in fact parking their money here and converting it into luxury items such as houses, etc.

• (1540)

There are many things that need to be done with regard to that system, but I think the one most required at the moment is for Canada to start studying, hopefully quickly, the creation of a beneficial ownership registry so that we can better determine who in fact is in possession of these potentially corrupt proceeds.

I think I'll stop there. I'd be happy to answer questions on any aspects of my opening statement.

The Vice-Chair (Mr. Dean Allison): Thank you very much, Mr. Ferguson.

We're going to now turn to Ms. Fenner for her presentation.

Ms. Gretta Fenner (Managing Director, Basel Institute on Governance): Thank you very much. Ladies and gentlemen, good afternoon.

I'm not a lawyer. My disclaimer, however, is the same, and I'm not even Canadian, so I'm certainly no specialist on the Canadian criminal law. I speak to you from the perspective of a not-for-profit organization based in Switzerland but working pretty much around the world with developing or transitional countries as well as financial centres in efforts to recover stolen assets through the hands-on law enforcement work we do with our partner countries, as well as at the Global Policy Forum, where we try to promote the issue.

This is really my perspective. I understand you're looking at two specific pieces of legislation, but I have been asked to give you a bit more of a broader perspective on asset recovery. I'm very pleased that I can speak to you today. It is nice to see that your committee, and I imagine the House of Commons, is interested in the topic of corruption and asset recovery. For me, it is still very important, and I think Gerry and I speak the same language in that we realize that it's not just the responsibility of certain countries. It is very much a product of globalization, as well as a threat to globalization, so it is very much an issue we should be concerned about and work together on globally.

I'd like to speak about two elements in my opening statement. First I'll give you a message that you might want to use or not in talking to your colleagues in Parliament and government about why returning stolen assets is important and why Canada should care. Then I'll say a few words about what I think Canadian lawmakers and politicians should do to improve Canada's track record in asset recovery and to make a more active contribution to the global efforts.

First of all, why is it important? You may or may not have heard of the estimates that between \$20 billion U.S. and \$40 billion U.S. is stolen every year from developing countries through corruption. If you consider the broader term of illicit financial flows, there are estimates that \$1.1 trillion U.S. in illicit assets flows out of developing countries every year. These are mind-boggling figures that should alert everyone to the seriousness of this issue.

The most obvious reason that asset recovery is important is that these monies should not be stolen and taken out of developing countries. Instead, they should be invested for the purpose of development in these countries.

I would, however, like to point out that this objective in itself should not be overestimated at this point. Gerry said we're not very successful globally at this point in recovering assets in huge sums. Rather, asset recovery, in my view, has an importance because it gets across the message that impunity for corruption, even for those powerful and rich, is no longer accepted. We take, in a sense, a very preventive approach to asset recovery, because by taking away the stolen assets from criminals, we succeed in taking away the incentives for these crimes. If we are more systematic with asset recovery, we will also have a preventive and not just a law enforcement effort. Because the whole chain of law enforcement and the judicial system is involved in asset recovery efforts, we also succeed in strengthening the rule of law, particularly in developing countries, thereby contributing to global development and stability. I think this is really important to understand. We're not just talking about specific cases; we're talking globally about a much more systemic impact when we talk about asset recovery.

If you look at why Canada should care, my personal view is that if the assets flow out of developing countries, they have to flow into some other country, and these are typically well-developed financial centres like Canada and Switzerland—my own country—as well as the U.K. and others. As a consequence, asset recovery, in my view, is very much a shared responsibility between developing countries and financial centres. We can always blame the poor developing nations for having bad governance, having a lack of control over corruption; our financial centres, however, and the banks in our financial centres, contribute just as actively to these horrendous cases of money laundering and corruption as the badly governed regimes, so I think it is really the responsibility of every country with a significant financial centre to contribute to global asset recovery.

I'd also like to point to one last issue, and that is very much something that has been coming out in the last couple of years.

• (1545)

Corruption—and asset recovery really is just one measure against corruption—significantly is seen to lead to political instability and undermines economic development. These are direct threats to security that don't stop at borders. They do lead to immigration

issues. They lead to terrorism. They have negative consequences on global trade. Again, when we talk about asset recovery, I would just like us all to realize we're talking about something much broader, something that affects many interests and issues at the core of Canadian foreign policy and domestic policy interests. This is the global context.

Now I have just a few words about what I believe a country like Canada—again, I'm not a Canadian and I'm not a Canada expert—should do.

On the preventive side—which, of course, I think should always be our preferred way of operating—it is absolutely essential that Canada fully implement and especially enforce a very strict anti-money-laundering regime.

In this regard, your committee should look at what has come out in the September 20, 2016, report of the Financial Action Task Force on Money Laundering. The report finds that Canada has a relatively adequate legal framework, but that there is one particular significant loophole, which I recommend you look at. It is that the money-laundering regime in Canada excludes in many respects legal counsels and legal firms. We all know that in large corruption deals legal counsel, legal firms, play a very important role as intermediaries.

What is also very significant in the asset recovery context is that the report also finds quite serious shortcomings in relation to investigating and prosecuting financial crime, especially money laundering and corruption. Canada does not have the level of investigative prosecutorial activity in relation to financial crime that it should have when you compare this activity to the significance of Canada as a financial centre.

I absolutely join Gerry—and I don't have to say more than that, really—in encouraging Canada to set up beneficial ownership registries that are publicly accessible. This also is a preventive measure. It is also, however, an important measure to strengthen law enforcement activity and thereby asset recovery.

Canada has made significant commitments in the context of the G20, in the context of the Cameron anti-corruption summit in May this year, and it will be great to see Canada follow through with these efforts.

I believe something that is very positive in the Canadian context and globally, comparatively speaking, is the fact that you have a form of administrative freeze. I believe this is in the FACFOA law, which is really considered internationally good practice. Together with Switzerland and the European Union, Canada is one of the few countries that provides an opportunity in law for administrative freezes. We have seen in the context of some of the Arab Spring cases and in the Ukrainian cases that I'm very personally involved in that this has meant Canada was able to act more quickly than other jurisdictions, and I encourage you to maintain and ideally to strengthen this provision and follow-up activity.

I'm jumping a little bit ahead here. I think that a country like Canada, which has significant capacity to investigate complex international financial crime, should help international efforts by itself more proactively investigating financial crime and corruption cases. That is one thing that should be encouraged through legislation or policy.

Oftentimes I see that investigators and prosecutors in countries like Canada are not very proactive. I understand why. These cases are extremely complicated, very slow, and success rates are very low. On top of that, you're supposed to co-operate with law enforcement agencies in other countries and developing countries, which are oftentimes much less efficient, and potentially with judicial systems that are very corrupt themselves.

There is not a huge incentive for law enforcement agencies in many countries, and I believe in Canada too, to actually follow through with what seems to be a government policy that anti-corruption governance is important. I emphasize that we need to find a way—you as lawmakers, as politicians—to translate these government commitments down to the actual enforcement level much more proactively, giving this tone from the top and setting the scene for Canada to be one of the leaders in this domain.

I would like to make two more points in relation to asset recovery, the first one more technical and the other more policy-oriented.

• (1550)

The first point relates to the fact that today we agree internationally that proceeds of corruption, assets that have been stolen from the state, do need to be returned to the country of origin that they have been stolen from. That is codified in an international treaty, the UN Convention against Corruption. What is more debated is whether proceeds of other forms of corruption—in particular, foreign bribery—should also be subject to potential repatriation or asset recovery.

As an example, a Canadian company—a fictitious case, of course—is found guilty of bribing a minister in another state to obtain a construction contract. The company in Canada is made to pay a fine to pay back the profits it made out of this case. These assets will stay in Canada at this point, and I'm not saying Canada is any different; other countries deal with it the same way.

However, the damage that was created by the bribery of this company is not so much in Canada; it's actually in the country where they have bribed someone and obtained a construction contract under dubious circumstances.

I strongly encourage Canadian lawmakers and politicians, as I do with other countries around the world—this is very much being debated at the moment—to consider recovering and returning or giving some of these assets that the companies have acquired through bribery in another jurisdiction to the victim states. That's one of the points.

My last point is one that I'm particularly passionate about. Anti-corruption and asset recovery oftentimes are seen as responsibilities of the judicial system, of law enforcement agencies, and in your case, of your development agency, because you do contribute significant amounts of money to governance and corruption programs. If, however, anti-corruption and asset recovery isn't understood as a whole-of-government agenda in the Canadian context, it can only be effective to a certain point, because additionally it will potentially hurt foreign trade objectives, foreign policy objectives, etc.

I see that over and over again. I really encourage you to be consistent and coherent in the implementation of an anti-corruption agenda as a whole-of-government approach, rather than just outsourcing it to justice and development.

I'm happy, obviously, to take any questions. I tried to give a bit of context here about the global agenda, and I hope that was, in some form or another, useful.

Thank you.

• (1555)

The Vice-Chair (Mr. Dean Allison): Thank you very much, Ms. Fenner.

Go ahead, Mr. Kent, for six minutes.

Hon. Peter Kent (Thornhill, CPC): Thank you very much, Chair, and thank you both for your appearance before us today.

Beyond asset recovery under FACFOA, the committee has also been hearing about the detection, the seizure, and the blocking of attempts to move funds into Canada by corrupt foreign officials in the sense of the Magnitsky Act passed by the U.S. Congress and the proposed global Magnitsky Act being considered by the Americans and the Parliament at Westminster.

What are your thoughts with regard to naming and shaming and ostracizing the perpetrators of human rights abuse who attempt to move their ill-gotten gains into a variety of countries? How effective would unilateral or individual national laws be to act against this, in the sense of the Magnitsky Act in the U.S., the probable Magnitsky-type act in the U.K., and perhaps the addition of a Magnitsky act or a global Magnitsky act of some sort in Canada?

Perhaps Professor Ferguson could answer first, and then Ms. Fenner.

Prof. Gerry Ferguson: Thank you very much for the question.

I'm all in favour of greater enforcement, including naming and shaming and every other possible way that we can attempt to keep corrupt funds from being processed or laundered through our Canadian financial institutions. As well, in many cases the money is not just passing through our institutions on its way elsewhere but is actually being parked in Canada by the buying of real estate or other luxury items.

As you've heard, I'm not familiar with the Magnitsky Act, but it sounds very much like it's part of prevention of money laundering at the international level. For me, the problem in Canada is our lack of enforcement of the mechanisms that are already in place.

Let me just take two examples. Financial institutions are required to do reporting to FINTRAC. FINTRAC gets a lot of information, but has very few resources to actually do anything with that information. Secondly, we're told that the financial institutions' reporting, other than maybe the big six banks, is very thin.

You probably know that the Federation of Law Societies of Canada avoided being brought into the proceeds of crime act or the money laundering act in the Supreme Court of Canada on the basis of privilege, etc. Those law societies now feel.... British Columbia, for example, has a set of regulations that lawyers are supposed to follow. The problem is not that the regulations are terrible, but that the law society is not proactive in ensuring that those things are happening.

In the case of the real estate market, there were lawyers in British Columbia who were obviously facilitating those huge purchases of luxury houses in Vancouver, and to my knowledge at least, there has been no policing of that. Now that it has hit the news, we might find a little, but, basically the law society is not proactive.

I see the enforcement side of this as a bigger problem than the legal framework side.

Hon. Peter Kent: Thanks, professor.

Ms. Gretta Fenner: Thank you very much.

I think the Magnitsky Act is probably an important symbolic act. I'm not entirely sure it will have a massive consequence in the broader scope in terms of all of a sudden stopping a huge amount of illicit international flows of assets. In terms of sending the right signals to say that Canada is definitely not going to be a safe haven for these assets, I certainly support that, but I do agree with Gerry that other measures, such as beneficial ownership registries, will in the end have a much more significant impact.

If I had to choose, I would certainly go for a beneficial ownership registry rather than a Magnitsky Act, but if I had the privilege of having both, obviously I'd certainly support both.

• (1600)

Hon. Peter Kent: We've certainly heard abundant testimony about the lack of capacity in Canada and sometimes the lack of priority in investigating the possibility of funds, but we've heard questions about evidence and how that evidence might be gathered about corrupt foreign officials in places that are either too dangerous or not accessible to Canadian investigators.

Would you recommend or suggest that we might consider accepting openly sourced evidence or evidence provided by other countries, other sources?

Again, professor, you can start first.

Prof. Gerry Ferguson: I am a criminal law professor. I think my students would say I'm slightly oriented toward the defence bar on many of these issues, but here's an issue where I think I swing clearly in the other direction. I think that we have to look at the context, as we're always asked to do, with each crime, and here we have to look at the context of the type of crime we're investigating. Here is a type of crime for which there was global knowledge, and one might say global knowledge of just how corrupt this government that we're referring to has been. There are all sorts of evidence, as you referred to, which I think is credible.

One of the mechanisms that certainly is possible is another very interesting and controversial approach that Britain introduced on October 13. They've introduced the very broad Criminal Finances Bill. It's in the legislative process now and being considered.

There are five important initiatives in that bill, all related to money laundering, asset recovery, and that flow of money. One of those initiatives is called an "unexplained wealth order". If this bill passes, then not every police force, but their designated major crime police forces such as the Serious Fraud Office or their customs office, which investigates these matters, will have the ability to apply to a high court judge to ask for and to have ordered this unexplained wealth order. An example could be when person X is in possession of a \$10-million house and there appears to be no apparent explanation of where they got the \$10 million.

It is controversial. It will be controversial. It moves in the direction I'm talking about.

I think the burden of proof has to be shifted in a very significant way for persons who are notorious and for regimes that are notorious. Any NGO's assessment on these matters can show just how corrupt a regime has been. I think that giving that regime every due process item that we give to our poorest citizens, who are subject to the power of our state, is really misguided. I think we have to take the exact opposite view, which is that in the face of very strong evidence of corrupt behaviour, we really reverse the process and have them account for their ownership in our country of this property.

The Vice-Chair (Mr. Dean Allison): Thank you very much.

We're going to move over to Mr. Sidhu, please.

Ms. Gretta Fenner: Thank you.

A person relating to the—

The Vice-Chair (Mr. Dean Allison): Sorry, that's all the time. Sorry, Ms. Fenner. I apologize for that. We'll try and catch you at the next one. We have to move over to the next round.

Mr. Sidhu is going to take over the floor.

Mr. Jati Sidhu (Mission—Matsqui—Fraser Canyon, Lib.): Thank you, Mr. Chair. Thank you both for your testimony today. You're very knowledgeable.

I had a chance to read parts of the Global Corruption Book. It says that the effectiveness of general deterrence is seriously questioned in the research literature on sentencing. I'm referring to this Regina v. Drabinsky corporate security fraud case in the Ontario Court of Appeal. I find this relative to global sanctions on foreign officials as well. The question is, would harsh sanctions against the foreign officials, in your academic opinion, deter individuals or groups from participating in illegal activities such as money laundering?

I'll start with you, Mr. Ferguson, and then Ms. Fenner can add her two bits on it.

• (1605)

Prof. Gerry Ferguson: I'll try to be brief so that Gretta can also get her two bits in.

Deterrence is something that I look at as a criminal law professor. Indeed, in our regular criminal justice system, which deals mostly with street crime and with people who are not motivated largely by a rational weighing of pros and cons, deterrence, as the literature shows, is of a questionable value.

Where deterrence does have the most powerful influence, according to the research, is in dealing with large-scale economic crime, where those persons have the most to lose by being investigated and found guilty. The difficulty with deterrence with even that group, however, is the second proposition that's very well known in deterrence literature. That proposition is that it's not the size of the penalty that is the biggest deterrent; it's the probability of actually getting caught. The bigger the offence, the more enforcement you have, and then the higher the probability of being apprehended, the more likely it is that the business person is going to say, "No, I'm not prepared to take that risk."

When we have low enforcement, even if we have big fines, we don't have the real deterrent value that we need. I'm not speaking against high sanctions for those individuals—they should have them—but it's not really going to deter others effectively unless we can also demonstrate that we are serious about catching you and have the resources to catch you. At the moment, these persons know that the risk of getting caught is very low.

Mr. Jati Sidhu: Ms. Fenner, do you have a take on that? Since you've touched on money laundering in your presentation, do you have a different take on this?

Ms. Gretta Fenner: Practically, what we see—and as I said, we work with law enforcement pretty much around the world—is that the challenge still is that although police are investigating corruption, they oftentimes do not actually trace assets. People may go behind bars and after 10 years come out of their prison cell and still have amazing amounts of money stashed away in other jurisdictions. That really doesn't deter anyone. In some countries, it's actually quite all right to live in a prison, especially if you can bribe your way out of it every weekend. I do think that taking the money away is an extremely important deterrent; if there's anything, this is the most effective.

In terms of some of the countries we work in, we have recently seen, through the work we've done in one country in Africa—in Kenya, actually—a 4,000% increase in successful corruption cases that we have brought to court, with similar amounts of assets confiscated, for the first time in the history of Kenya. This is now making headlines in the newspapers almost every day. You can imagine that maybe they are not entirely scared yet, but certainly they are starting to listen a little more. I do think that this is the most effective deterrent, yes.

Can I just add two words on the evidence and the intelligence, if I may?

I would like to encourage you to look into a number of ways of working with other jurisdictions to actually get access to evidence and intelligence from other jurisdictions. There are plenty of opportunities, including the FIU-to-FIU channels and joint investigation teams. You can work through vetted teams, as the U.S. does a lot in financial crimes in Africa and in countries that are harder to access. There are numerous well-established law enforcement practices that can be used. That refers to the previous question, but I think that in practice there are numerous ways of dealing with this issue.

Mr. Jati Sidhu: Mr. Ferguson, since you're writing another book on the corruption here, what do you see as the end goal of these sanctions, in your experience?

• (1610)

Prof. Gerry Ferguson: The end goal always with sanctions is, number one, to provide an appropriate response to those who have violated our laws. Global corruption is violating human rights laws with huge impact, so the first function is to deal sternly with those who create such violations of human rights.

Secondly, though, the sanctions are also there to deter, to the extent that deterrence is possible. As I say, we also have, I think, a moral obligation as a country. We are a relatively wealthy country. We do have the capacity to do more to try to stem global corruption and view it as very much a human rights issue, not just an economics issue. The greatest sufferers of this global corruption are of course the poorest countries, and the first part of my paper and my book concentrates on that aspect. I think we have a moral obligation to do more.

I'm not sure if you've heard testimony yet from the RCMP who are responsible in this area. They did nothing and they had zero resources put into international apprehension and investigation until they were embarrassed into doing something. In 2007 they were embarrassed into creating two units of seven officers each, one in Ottawa and one in Calgary. Then just less than a year ago, in January, the commissioner, either before your committee or another committee, was honest in saying he had had to drag most of those people out of the ordinary bribery cases, and the only ones they're really red-flagging right now are the terrorist-financed cases.

I hope that as a committee you're cross-examining our officials. I'm not blaming the RCMP. They're not getting funding from the federal government, extra money to pursue that. I'm throwing out some pretty big accusations. I'm not wrong on the seven and seven and what the commissioner said in January of this year, but the problem is—and I'll have to be judicious and not say it's a joke—that we're really not playing our part. As Gretta says, we should be playing a leading role, and we're playing very much a back seat role in terms of investigating matters of this sort.

The Vice-Chair (Mr. Dean Allison): Thank you. Thank you very much, Mr. Sidhu.

We're going to turn now to Madame Laverdière, please.

[*Translation*]

Ms. Hélène Laverdière (Laurier—Sainte-Marie, NDP): Thank you very much, Mr. Chair.

I would also like to thank the two witnesses for their presentations, which were very interesting.

I completely agree that corruption is a kind of cancer that undermines democratic development, as well as international security and stability.

To pick up on your last comment, Mr. Ferguson, I would say this committee has heard very clear testimony about the lack of resources at the RCMP, and elsewhere as well, and that the RCMP is hardly even investigating these matters. Since the risk of getting caught is very low, so too is the deterrent effect.

My question is for Mr. Ferguson, but I might go back to Ms. Fenner after.

As I recall, the OECD published a report three or four years ago about Canada's role in relation to the OECD convention on fighting corruption. Among OECD countries, Canada was not doing very well in its efforts to fight corruption.

From what you have seen, has any progress been made since then or have things stagnated?

•(1615)

[*English*]

Prof. Gerry Ferguson: No. We were admonished by the OECD when they did the evaluation of our Corruption of Foreign Public Officials Act, and then the government responded by creating these units.

Three years ago we were told by the RCMP that they had two big cases, and we saw \$9 million and \$10 million penalties. We saw charges in a third case. We were told that the RCMP had active investigations under way on 34 other cases. We have not heard anything about those other 34 cases, and I dare say that if you cross-examine them, you will discover that either the cases have disappeared or they simply don't have any resources to work on them.

I would say we've slipped from, say, 2014 to 2015. Certainly from 2015 on, I would say we've slipped in terms of our enforcement of the Corruption of Foreign Public Officials Act.

As you all know, there's one very big case, SNC-Lavalin. That's going to go on for a long time because they are looking for an administrative remedy rather than a criminal sanction, and we haven't officially moved in that direction. I'm not opposed to our moving in that direction, by the way, but Canada hasn't.

We have another SNC-Lavalin case that isn't really their case, because they weren't charged, but Mr. Wallace and the corruption involved in the Bangladesh bridge are also in process. There are two big cases going on, both connected, but nothing else whatsoever is really percolating.

[*Translation*]

Ms. Hélène Laverdière: Thank you very much.

[*English*]

Sorry; I'll transfer to English, because I've listened to you in English and all my notes are in English. Sometimes I have trouble translating into my own language. Also, thank you to our Swiss friends, who sometimes were more proactive than Canada itself regarding arrests of people involved in money laundering or other kinds of activities.

Ms. Fenner, you talked about returning assets to countries. We had a case here in Canada a few years ago involving assets from a former Tunisian official who had houses in the eastern part of Canada, this time. I'm just trying to remember off the top of my head. Canada's decision, after seizing those assets at the time, was to return about 25% of the money to Tunisia and keep the rest for administrative costs here in Canada. I was somewhat flabbergasted—and that's a word I like—when I heard that.

I wonder what the general practice is in other countries when you freeze and take over assets and return them to developing countries, in particular. Is it 100%, or just a fraction of the amount?

[*Translation*]

Ms. Gretta Fenner: Thank you for the question, Ms. Laverdière.

If I may, I will answer in English. It will be easier for me.

[*English*]

Thank you very much for the question. This is something I'm very passionate about. It's an unsolved issue, but I certainly am also flabbergasted to hear that only 25% was returned to Tunisia.

The issue is that under the UN Convention against Corruption, assets stolen through corruption or any crime defined in the UN convention must be returned to the country of origin. The convention says that you can keep a small percentage to pay for your administrative costs and your own law enforcement actions. Good practice internationally would say that this is never more than 5%.

That said—and I must admit that I am not 200% on top of the case, which was, I think, around the son-in-law of former president Ben Ali—

Ms. Hélène Laverdière: Yes.

Ms. Gretta Fenner: —but if the case was solved or closed in a domestic Canadian investigation for money laundering, the situation, technically and legally speaking, presents itself differently. In that case Canada, legally, under the treaty, has the possibility of only giving back 25%, but politically, I can assure you, it is definitely not considered good practice—on the contrary.

There is a lot of debate between requesting and requested states, and I would love Canada's input to this debate. Currently we've been working with the UN system on this for years now. There is an expert panel coming up in February in Addis Ababa that will look at what good practice is, and good practice is for the requesting and the requested state to talk together about how the money can go back and be employed meaningfully in the former victim state in such a way that the damages that were caused by corruption can be somewhat remedied. This really should be a partnership approach, and certainly in no case should the requested state keep 75%. That's fairly shocking.

•(1620)

[Translation]

Ms. Hélène Laverdière: Thank you very much.

I must point out that I am not sure of the percentage. It was a few years ago and I do not have the figures in front of me. It was nonetheless a fairly small sum of money. Many people, myself included, were upset by this. I do not remember the exact percentage though.

[English]

You also mentioned \$1.1 trillion in illicit flows of money.

[Translation]

We know it can range from very clear instances of corruption, pure and simple, to business practices that are quasi legal.

What is included in that amount of \$1.1 trillion?

[English]

Ms. Gretta Fenner: The \$1.1 trillion—it's hard for me to imagine these figures—is an estimation by the global financial integrity initiative, and that includes the so-called illicit flows. This may be legally earned money that leaves a country for tax evasion purposes, as well as proceeds of corruption and other forms of crime.

I would like combine this comment with something that was said earlier about the end game.

The point is that all these efforts—fighting corruption, stopping illicit financial flows, returning stolen assets—is not just around corruption. Corruption, in a sense, is one of the root causes of almost every global crime. Terrorism, human trafficking, modern slavery issues, all the security concerns we have—even illegal immigration, as silly as that term is, or trafficking in immigrants—are all possible only because we have such a huge amount of corruption, so we need to see this as much bigger.

I like to refer to the \$1.1 trillion because although it's not all due to corruption, corruption is behind most of the crime that have led to the \$1.1 trillion. I think this is something that we don't want to acknowledge, and our financial centres are still much too protected.

We can call it “letting themselves be misused” or “being misused.” I don't mind which way we turn the words around, but the same debate applies in Switzerland. The banks and the international financial centres are definitely not doing enough to stop the money coming into our centres, and we have an obligation to do more about that.

The Vice-Chair (Mr. Dean Allison): Thank you very much.

We're going to turn it over to Mr. Saini, please.

Mr. Raj Saini (Kitchener Centre, Lib.): Thank you very much, Ms. Fenner and Mr. Ferguson, for being here.

Ms. Fenner, I want to start with you because you've written quite a lot on the Swiss asset recovery mechanism. I think they have a special system whereby they can recover the assets very quickly or freeze assets very quickly. I was hoping that for the benefit of the committee you could highlight some of the advantages they have in that system, and where we might improve our own legislation.

Ms. Gretta Fenner: Thank you.

I think what you're referring to is probably the freeze under the constitution, which has now actually been put into regular law. Originally the Swiss constitution allowed for the federal council to freeze assets immediately if they could be considered a concern to its foreign policy interests. This was used very creatively—and very openly, positively so—for many years to freeze assets. They were typically the fastest ones to react to the Arab Spring, to the fall of the Yanukovich regime, and so on. That allowed assets to be preventively frozen. It is a very important system.

I understand that Canada has a somewhat similar system. It is maybe not as fast, but it is important.

Obviously that doesn't prevent criminal law enforcement activities from double-freezing and triple-freezing later on. Under this provision you cannot keep it frozen forever, because at some point you have issues with the rights of the defendants.

I think the recent change in the Swiss legislation that's really important to look at is the issue of mutual legal assistance with countries that are so-called failing states. I won't be able to go into details here, but it's definitely worth looking at the legislation that entered into force on June 1 or July 1 in Switzerland. I'm more than happy to share the link to the legislation with the clerk for distribution, and it certainly is available in French. It deals with one of the critical issues of mutual legal assistance with failing states, which is what happens when a case falls apart. Oftentimes, you don't get the evidence you need from the other jurisdiction or you cannot transfer evidence to that jurisdiction because the systems have fallen apart. That part of the Swiss legislation is probably really worth looking at.

•(1625)

Mr. Raj Saini: I want to get your commentary on two specific instances. In one instance with General Abacha in Nigeria, the return of the assets was negotiated with the Swiss government. The returned assets were supposed to be directly funded back into the central budget, which was for 2005, but in 2004 the money was already spent.

The second part of the issue I have is with Angola, where the Swiss government decided not to return or repatriate all the assets but to create a fund in Switzerland that only the Swiss government or Swiss banking officials would have access to.

Once an asset has been recovered and is returned back to the country of origin—in many cases, as you mentioned, these are failing states, or they are states where they may not have a command and control structure within their own economy—how do we make sure the money that's returned is not utilized by that regime to further their own interests or to take that money and put it somewhere else?

Can you comment using these two specific examples I have highlighted?

Ms. Gretta Fenner: You chose the not-so-good examples, but you.... They are worth talking about, and they are the cases we often cite in order to convince the international community, and especially the United Nations Office on Drugs and Crime, which is reluctant to develop guidelines for this effort.

I can openly say we are in the middle of negotiating a return between Peru and a European jurisdiction, one of the very old cases relating to former president Fujimori. Peru has every right to say, "Give us the money. It's our money under the UN convention. Give it back to us, and it's none of your business what we do with it." Because we work closely with them, we have made them realize that it's actually in their interest that the money be returned in a very transparent way so that they can distinguish themselves from those like the previous regimes that have stolen. Even in Peru the levels of corruption are such that I would not trust, if the money goes back to the treasury, that it would not be effectively stolen.

At the moment the only instrument we have is soft diplomacy. There is no legal instrument that obliges any requesting states to take any condition. We never talk about conditionality. We talk about modalities for return.

At the moment, you have soft diplomacy and actors such as ours who try to facilitate these discussions. There is, however, as I said, an international process now that we are supporting, led by the UN Office on Drugs and Crime, which is trying to come up with a set of guidelines that would give both countries a common ground to develop monitoring systems for spending of assets on specific earmarked projects, and so on. That is currently where this debate stands. It's not stronger than that, I'm afraid.

Mr. Raj Saini: I have one final question, a technical question. Maybe you can help me understand how this protocol would work out. Let's say you have a person in country A who bribed somebody in country B, and that money is deposited in country C. Who has that money? Who has the rights to that money? If an individual in one jurisdiction bribes someone in another jurisdiction for some sort of business endeavour or whatever, and that money is deposited in a

third country, who owns that money? Where should that money be repatriated to?

Ms. Gretta Fenner: That's exactly the case I was referring to. That's not the traditional case of corruption like General Abacha, who stole from the treasury and stashed it somewhere else. This is a foreign bribery case, in which the jurisdiction that leads the foreign bribery investigation will end up either settling or finding the company and keeping the money.

The country that actually investigates its company for bribing somewhere is going to be the country that keeps the money. The international debate I was referring to earlier is trying to push for countries to give considerations to these kinds of settlements in foreign bribery cases to be returned to the country or given to the country that has suffered the damage from the bribe.

•(1630)

Mr. Raj Saini: I have one last question, and maybe I can ask both of you for a quick answer.

When someone coming from another country goes to a foreign bank account and deposits.... General Abacha had \$700 million U.S. to \$1 billion U.S. deposited in a Swiss bank account. Was there no protocol or measurement when this gentlemen just walks into the bank, drops this much money, or does a series of transactions? Was there nobody wondering how this person could have so many assets? I'm wondering how you could determine that, or why someone didn't determine that at the time.

The Vice-Chair (Mr. Dean Allison): Ms. Fenner, please give a quick response. Then we'll go to the next round.

Ms. Gretta Fenner: Sure. I also need to point out that I have a flight to catch.

Yes, this is astonishing, and that's where the banking industry was at that time. I don't think this could happen today anymore, especially with the Abacha case. It's so blunt and banal. It's so cash-oriented. It's not complicated. It doesn't go through offshore structures.

In a positive sense, you can say today that this would not be possible anymore, either in Canada or in Switzerland, because we have improved our standards. In the negative sense, you can say that the criminals have just gotten smarter and are now doing it through 15 offshore centres. You can see it as a positive or a negative in that sense.

Prof. Gerry Ferguson: I agree with that answer.

The Vice-Chair (Mr. Dean Allison): Perfect. Thank you.

We're going to finish up with Mr. Miller. He's going to ask a couple of questions.

If you have time, Ms. Fenner, that would be great. Thanks.

Mr. Marc Miller (Ville-Marie—Le Sud-Ouest—Île-des-Soeurs, Lib.): Thank you both for coming. This study has gone off on a bit of a tangent. If we were purists about the bodies of legislation we are studying, you wouldn't be here, although I think, Ms. Fenner, you raised an extremely important point. The relevancy of your presence here today is that corruption causes the behaviour that we are, at the basis, examining today, whether it's violations of international law or human rights violations or different reprehensible practices by governments, or by corporations in this case. It hits on an extremely important point, which is that corruption is at the root of a lot of behaviour.

The question I had generally was on deferred prosecution agreements and what their impact is on recovering the assets. The U.S. has them. It has gone after a number of corporations. Those corporations are listed on a website. Their guilt, their culpability, is clearly stated. The idea behind it is that once a corporation makes a payment, that money is gone to the official in question. However, in prosecuting the corporation in question, at the end of the day, more often than not it isn't so much the shareholders or the beneficiaries who will pay, but the employees, because business will be lost.

I'd like your view on that as it applies to Canada with respect to deferred prosecution agreements.

Perhaps Professor Ferguson can go first.

Prof. Gerry Ferguson: The United States, of course, has been very active in terms of its deferred prosecution. There have been suggestions that Canada should also develop that.

I think when one is looking at corporate global foreign corruption, one has to look at a range of sanctions. Some jurisdictions refer to these as monetary or administrative penalties, much as the securities commissions do. They are quasi-criminal.

The deferred prosecution agreements are very important for two reasons. One is that companies are either bludgeoned into or find it economically appropriate to enter into a prosecution agreement. One of the main reasons—and I heard you use the word—is that no criminal conviction arises out of that deferred prosecution, provided they pay all the necessary disgorgement and administrative sanctions. That allows the corporation to continue, saying that there may have been some problems in their company, but they're not first and foremost a corrupt company. Secondly, it prevents them from being debarred from negotiating, for example, with the World Bank on huge infrastructure projects, or with many other countries.

Avoiding a bribery conviction has various benefits for the corporation, but I think it's also fair to say that it does have some benefits for the country, because it allows the United States to process about 15 times more corruption cases than any other country in the world. I think we should be seriously investigating the pros and cons of that process. It will look on the one hand as if we're simply providing leniency to these big corporate criminals, but I think one has to take a bigger view of this as a huge international global approach to how we need to try to reduce the corruption.

The United States has been, as I said, the only real world enforcer in terms of this global corruption. Germany is second, but well behind, and Canada, as well as many other OECD countries, is doing almost nil.

• (1635)

Mr. Marc Miller: Ms. Fenner, do you have a couple of words? I don't want you to miss your flight.

Ms. Gretta Fenner: No, that's fine.

I must admit that I don't really have much to add. I perfectly agree with everything that Gerry said. I will only say that the issue I would like to bring up in the asset recovery context is that of where the money goes and who has actually suffered, whether we settle or we bring it to a full-fledged criminal proceeding.

Another key term you might want to look at is “civil asset forfeiture”. More in terms of the traditional corruption cases, that could be a practice you might want to look at as well. It has similar types of pros and cons.

I think that's all I need to say.

The Vice-Chair (Mr. Dean Allison): Thank you very much.

Ms. Fenner and Mr. Ferguson, thank you very much for your time today.

We're going to call it a wrap here right now.

Prof. Gerry Ferguson: If I could, Mr. Chair, I'd like to make one very brief statement.

You will no doubt hear about International Anti-Corruption Day on December 9. Transparency International Canada has announced that it will be releasing an important study that it has done on beneficial ownership. I encourage you to... I haven't seen the report, but I'm quite confident it's going to, number one, say that Canada hasn't been pulling its weight and, number two, say that we have to start moving forward in that area. That'll be this Friday.

The Vice-Chair (Mr. Dean Allison): Thank you very much for that suggestion. We'll make sure that we try to get a copy of that.

Thank you to both of you.

Prof. Gerry Ferguson: Thank you.

The Vice-Chair (Mr. Dean Allison): We'll suspend for just a couple of minutes while we get our new witnesses in. Thanks.

• _____ (Pause) _____

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• (1640)

The Vice-Chair (Mr. Dean Allison): If everyone would please take a seat, we'll get into the last hour.

For those of you who are new members, I think you saw the report. We did a study on Hong Kong before the election in 2015, so we see this as a bit of a follow-up. To the members who got back to Angela to say that it was okay that we get a follow-up, thank you very much for that.

We have Chang Ping here, who is a journalist. He will talk a bit about his work and what he's doing. Gloria Fung, who actually testified before our committee sometime in 2015, is here as a translator. Mr. Ping will talk, and then Ms. Fung will translate.

Even though we're in public to talk about what we're doing, we want this to be sort of informal. Then we'll just go back and forth for maybe a couple of questions to follow up from that. I don't know if people had a chance to look at it, but there was a report that the clerk sent out on some of the work that we did in the previous government.

I'm going to turn it over to Mr. Ping now to give us his opening testimony. I believe Ms. Fung is going to translate for us, and then we'll try to get a couple of questions in here in the next half an hour to 40 minutes.

Mr. Chang Ping (Journalist, As an Individual) (Interpretation): Good afternoon. Thank you for taking the time out of your busy schedule to meet with us. We would also like to thank you for your continuous support for the human rights situation in China and for showing concern for the human rights situation in China and Hong Kong.

I feel very honoured to be the recipient of CJFE's 2016 international media award. I would also like to take this opportunity to share with you my observations and analysis of the recent developments in China and Hong Kong.

My family and I have been under suppression from the Chinese government for a very long time. However, I must say that our case is not really the worst, because there are worse cases in China. In China, a lot of people have been arrested and put in jail, not because of what they do but because of what they say when they are only exercising their freedom of expression.

Freedom of expression is just the beginning of any other action, but in China it's almost impossible for you to take any action. We consider speech to be a freedom itself.

Because the Chinese authorities realize the importance of freedom of expression, the suppression of freedom of expression is not confined only to China domestically, but they also crack down on the movement in Hong Kong. They've also tried to manipulate the election in Taiwan. They have also extended this influence overseas, through a campaign amplifying their propaganda work abroad.

I think Chinese authorities, the Chinese government, is actually very good at understanding the importance of freedom of expression. Therefore, they know that they cannot just suppress freedom of expression domestically, within China, but they also need to capitalize on the globalization of freedom of expression elsewhere so as to exert their influence elsewhere as well, including in Canada.

I would like to take this opportunity to urge all our friends here to pay attention to four areas.

• (1645)

I would like to, one, urge all of you to be concerned about every single incident of the suppression of freedom of expression by Chinese authorities. The silencing of the voice of any media, the threat imposed to any journalist, the censorship of any social media, is a global incident with global impact. Twitter's recruitment of Kathy Chen, who has co-operated with the Chinese security department as their China regional manager, and Facebook's development of software to satisfy China's need for censorship of

social media all imply China's capability to get access to and censor global users, including Canadian users' expression and personal data.

In addition, WeChat, the popular social medium under China's full control, which is also commonly used by many Chinese Canadians, never shies away from admitting that it has incorporated the Chinese government's strict censorship of expression in its operation.

Number two, I urge all of you to become concerned about the situation of political detainees in China, especially the 709 lawyers case. Since July 9, 2015, over 300 human rights lawyers and legal assistants, as well as their family members, have either been arrested or harassed by Chinese police. Three of the lawyers have been sentenced, 10 of them are still under arrest, and the rest have been forced to agree to remain silent or forced to admit their crimes on TV while they are waiting for the court hearing.

Many of them have been made to disappear or have been abducted by the police without any due legal process. The most recent case is Jian Tianyong, the renowned human rights lawyer. He has been disappeared for over 15 days now, after he visited his client in jail. Prior to this, he was beaten up by police and made to disappear a number of times.

• (1650)

Number three is to support the Hong Kong people's movement to protect their freedom rights. The lack of a response from the international community has induced the Chinese government to further suppress freedom in Hong Kong. The five publishers and staff of Causeway Bay Books have been illegally abducted back to China by Chinese police from Hong Kong just because they published books criticizing Chinese leaders. The courageous sharing of truth by one of the abducted publishers, Mr. Lam Wing-kee, has not been positively echoed by the international community, where there has not been much progress of any kind. The recent brusque interpretation of Hong Kong Basic Law by the Standing Committee of the National People's Congress of China has caused tremendous damage in the independent judicial system and also the rule of law in Hong Kong.

Number four, I would like to call for all of you to take concrete actions to ask for the immediate release of Canadian political detainees in China, including Mr. Huseyin Celil and Mr. Wang Bingzhang, given their deteriorating health conditions in jail. Wang was abducted back to China from Vietnam. He was charged in China and sentenced to life imprisonment. He was severely tortured in jail. His mental and physical health are in jeopardy. His family members have been advocating for the Canadian government's concern, but in vain. Actually, just last night I talked to his family members over the phone. His family members also urged me to pass the message to all of you to take immediate action to get his immediate release.

Last but not least, I would like to make a few recommendations.

First, China superficially appears to be very strong, but actually it is very concerned about international opinion and it does respond to international pressure.

Second, human rights are key to the resolution of many of the problems in China. A lot of countries have been talking about the separation of economic and trade agendas from the human rights agenda. I personally consider these two to be integral parts of the entire package. They are inseparable.

● (1655)

Therefore, if we advocate strongly on the human rights agenda, we will also be able to get a better deal and also be able to enjoy bargaining power when we deal with China in any commercial or government-to-government agreements.

There is also one last point I would like to make. It is also of utmost importance for Canada to establish a comprehensive human rights strategy and protocol, and have it factored into all policies and agreements involving China.

I would like to end my deposition here, and I welcome questions from all of you.

● (1700)

The Vice-Chair (Mr. Dean Allison): Thank you very much, Mr. Ping, and to Ms. Fung for helping to translate.

We have less than half an hour left. Is it all right if we go back to each side so everybody gets a chance?

We'll start with you, Tom, and then we'll move over here, and we'll finish with Madame Laverdière.

Mr. Tom Kmiec (Calgary Shepard, CPC): Is that one question at a time, and then go back and forth?

The Vice-Chair (Mr. Dean Allison): No. Just go ahead. We'll have one round is what I'm trying to say.

Mr. Tom Kmiec: I have three questions. They are pretty short.

Thank you very much for coming in. I note our agenda says "Human Rights Situation in China". It should be "Human Rights Situation in China and Hong Kong". That should be specifically laid out in the meeting agenda.

I know your presentation today doesn't tie in directly with the study we have, but I do have a question that relates to the study and to the situation in Hong Kong.

Senator Tom Cotton and Senator Marco Rubio have tabled legislation in the United States Congress calling for asset freezes and travel bans against individuals involved in the decisions to abduct, kidnap, prosecute, and oppress certain members of the Hong Kong assembly and also the booksellers involved. One of them was kidnapped directly from Hong Kong, one from Thailand, and three from PRC.

Thus, that's my first question. Would it be effective to sanction the officials involved in these actions, yes or no?

My second question is regarding the two legislators who were barred by the judicial court and disqualified. I'm talking about Yau Wai-ching and Sixtus "Baggio" Leung. What will be the effect on the democracy movement and the rule of law movement in Hong Kong? Will they accept their disqualification from taking their seats in the assembly, or will there be further protests and demonstrations? Will other legislators as well dissent and then not take their seats?

My last question has to do with the report of the committee from the previous Parliament, which had three recommendations. Although it reiterated its support for the "one country, two systems" principle as well, it had the following recommendation:

The Committee recommends that the Government of Canada state its support for the democratic aspirations of Hong Kong people, including the need for genuine universal suffrage in the election of their political leaders.

I would like to get your comments on that and your viewpoint on what that means to you in the activism you do.

Mr. Chang Ping (Interpretation): First of all, I would like to point out the reality that a lot of the Chinese officials who are involved in human rights violations have not been sanctioned or punished by the international community. Not only that, they have also been able to send their kids abroad for further education, or even to stay behind to operate a business abroad. When they fly out of China, they are given VIP treatment. It seems as though they have not been really sanctioned or punished by the international community.

I consider sanctions to be an effective means—of course, one of many means—to discourage these officials from doing what they have been doing. The reason that they are sending their family members and kids abroad is that they themselves feel the insecurity inside China; therefore, they have to find a safe haven abroad. If they are sanctioned, I'm quite sure it will have an impact on them.

● (1705)

I consider the interpretation or amendment of the Hong Kong basic law by the standing committee of the national congress of China to be damaging, not only to the Hong Kong rule of law but also the global rule of law. This interference by the national congress is without any due legal process, and as a result, it will disrupt and eventually also violate entirely the Hong Kong basic law.

As a result of that, I believe the pan-democratic people, as well as all the young people, who have a very strong attachment to Hong Kong, will be forced to take even more radical action in order to get their voices heard.

Before, they used to take a very rational approach and used a very peaceful means in expressing themselves. If this is going to be the trend, if the international promise is going to be broken and disrupted by the Chinese government, then the Hong Kong people, especially the young people, will have no other means to voice their opinion but to be even more radical in the future.

● (1710)

The Vice-Chair (Mr. Dean Allison): Thank you very much.

I don't think we have a chance for a third one, but we do have a limited amount of time, so we're going to move to the Liberals and Mr. Levitt.

Mr. Michael Levitt (York Centre, Lib.): Good afternoon.

First of all, I want to congratulate you on your International Press Freedom Award given by the Canadian Journalists for Free Expression. I've looked over your biography, and clearly you've had a long history of standing up for press freedom and being on the front line in standing up for human rights.

On the topic of press freedom, can you explore a little bit with us, and describe the situation that exists within China, and maybe even beyond China's borders, in terms of media, and particularly social media, in terms of pushing the narrative, and the impact that has on human rights?

Mr. Chang Ping (Interpretation): Thank you very much for your congratulations and for the encouragement of the work I have been doing for two decades.

Definitely, social media in China have been playing a very important role, because all the traditional print media or even electronic media are all under very strict party control. As a result, social media comparatively have more room to convey messages without that kind of strict control.

Chinese social media such as WeChat and Weibo have been enjoying an audience of billions and billions of people within China as well as abroad. Actually, many Canadians are also users of these two social media. This kind of new media has enabled the Chinese people to more freely express their own ideas and also exchange views.

As a government, the Chinese Communist Party realizes how important social media are within China and abroad, so instead of stopping social media altogether, it actually makes use of them to manipulate public opinion. They pay lots of people, called five-cent people, to create so-called public opinion on social media so as to mislead the general public, as well as media, as to what the real opinion is all about. That actually also happens here in Canada.

Actually, the same manipulation of public opinion also extended to the recent American presidential election. I understand that a lot of Chinese people supported Trump. They used WeChat to spread this message to the community to advocate for people to vote for Trump.

• (1715)

Ms. Hélène Laverdière: Congratulations on your well-deserved prize.

You mentioned the issue first of Huseyin Celil. I have to say that my office is aware of the issue. We are monitoring. Amnesty International, I think, is also working on that issue.

You mentioned more broadly the issue of political prisoners and the issue of torture. It's unclear if it's a decision, but a few weeks ago the Canadian Government floated the idea—some said the decision was made, at other times the decision had not been made—of having an extradition treaty with China. Many people were very worried about that. Of course, Canada wouldn't extradite somebody only on the basis of political activities, but still, I'm among the people who are worried because of the judicial system in China, which is not transparent, and because of the potential for torture in prison.

I would like you to comment on torture in prisons and the transparency of the judicial system in China.

• (1720)

Mr. Chang Ping (Interpretation): I always consider any kind of trade agreement to be mutually beneficial, on the condition that it is fair and that the human rights agenda is being embedded in the process of negotiations between the two parties. We have to realize

that in China there's only one party that rules, and they can do whatever they like.

I mentioned that human rights is also an improvement. It's also a key to the resolution of many other problems. If the human rights situation could be improved in China, it would also have a positive impact on Canada-China co-operation. Both parties could benefit equally from this improvement.

The Vice-Chair (Mr. Dean Allison): Why don't we finish off with Mr. Fragiskatos, please?

Mr. Peter Fragiskatos (London North Centre, Lib.): Thanks very much, Mr. Chair.

I have a question about what the people of Hong Kong think of the proposed electoral framework.

The previous sitting committee heard testimony from Alan Ka-lun Lung, the chairman of the Hong Kong Democratic Foundation, who cited a poll that 47% of Hong Kong people support the package of proposals put forward, as far as the electoral framework is concerned, while 38% were against and 16% had no opinion.

Another witness testified that “something less than half of the people polled” are willing “to pocket the package”, while close to 40% say, “Over my dead body”.

Another professor commented, “Essentially we have a city now divided into two halves, as we saw at the end of the Occupy movement”, with the Occupy movement being the Occupy movement in the U.S., of course.

I want Mr. Ping to comment on the views that exist in Hong Kong about the electoral framework. Is the city divided on the question on the electoral framework that's been passed?

• (1725)

Mr. Chang Ping (Interpretation): In response to your question, I personally believe that if there is no pressure exerted from above, everybody will support an election with the element of genuine universal suffrage. Why is it that there are some people who are opposed to it? There could be various reasons.

Number one, some of them could be brainwashed by the government, thinking that if there is democracy, that might also imply instability. That is very common inside China.

Number two, it could be the result of the manipulation of public opinion by the government. As I said before, there are so many ways that the Chinese government has manipulated public opinion; therefore, sometimes under such long-term socialization and manipulation by the Chinese government, people sometimes might even have internalized this type of very misleading belief.

Mr. Peter Fragiskatos: Even on the question of how to choose the chairman, how to choose the head of the local governing structure in Hong Kong, there seems to be a divide. Young people are very much opposed to what had originally been put forward by the Chinese state in terms of the selection framework. Particularly the business class, but even older populations—let's say 45 years of age and above—were not as opposed to what the government was putting forward. There is a clear divide on issues beyond the question of universal suffrage. That's at least what this committee in a previous forum was told, so I just wonder about that.

• (1730)

Mr. Chang Ping (Interpretation): I consider the political dynamics in Hong Kong to be very.... What shall I say? It's changing all the time. It all depends on the influence from the Chinese government and also on the various forces at work there. We have to admit that Hong Kong society is very pluralistic, exactly because there are so many different opinions existing in Hong Kong society. That's why we do need a democratic system, right? It's in

order to build consensus so that all the different opinions can be minimized and those divisions could also be minimized.

With respect to the business sector's view of a democratic system, we have to understand that it's just like the view of a lot of business people here. If they want to do business with China, they know what to do, even though they may support democratic systems. Also, in order to get the business, sometimes under this kind of undue influence and pressure, they may openly say that they don't need it.... It's just like North Korea. If you go to North Korea and ask the north Korean people whether or not the government is good, I'm quite sure that over 90% of them will tell you that the government is excellent.

The Vice-Chair (Mr. Dean Allison): Thank you for being here today.

Thank you to the committee for being flexible and giving our witnesses a chance to be here.

With that, the meeting is adjourned. We'll see you on Wednesday.

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