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Chair

Mr. Robert Oliphant

Standing Committee on Public Safety and National Security

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• (1530)

[English]

The Chair (Mr. Robert Oliphant (Don Valley West, Lib.)): I call the meeting to order.

We do have quorum, and I'm assuming other members will join us as we go.

This is meeting number 53 of the Standing Committee on Public Safety and National Security. Welcome.

I'd like to extend a special welcome to our witness guests today. Thank you for contributing.

This is a continuation of our study of the national security framework. Meetings were held in the fall here in Ottawa, and 10 meetings were held across the country as well. We are picking up a few extra meetings because we thought there was perhaps some evidence we had missed and we wanted to make sure we had a few more groups speak to us. Last week and continuing this week, we have been very pleased that we've had some additional witnesses come to share their wisdom with us.

A couple of you have been here before, and I believe a couple are new. The first panel will be an hour, from 3:30 p.m. to 4:30 p.m. First the B'nai Brith will give 10 minutes of comments to the committee. Then the Islamic Society of North America will have 10 minutes. Then the committee will ask questions for another 40 minutes, and we'll continue that way.

We'll begin, but I don't know how you're sharing your time.

Mr. Michael Mostyn (Chief Executive Officer, B'nai Brith Canada): Thank you very much.

It's Michael Mostyn. I'll start for B'nai Brith and then I'm going to pass to my colleague.

The Chair: Perfect. Thank you, Mr. Mostyn.

Mr. Michael Mostyn: Thank you, Mr. Chair.

B'nai Brith is Canada's oldest membership-based Jewish organization. Through its League for Human Rights, which maintains an anti-hate hotline and prepares an annual audit of anti-Semitic incidents, it is the premier advocate of human rights for Canada's Jewish community.

B'nai Brith testified before this committee in 2015, focusing on our support for one particular aspect of Bill C-51 relating to the creation of an offence for the promotion of terrorism, seizure of terrorist propaganda, and deletion of terrorist propaganda from computer systems. We offered several recommendations for

amendments. My colleague David Matas, who serves as the senior legal counsel for B'nai Brith in Canada, will update our position in that regard in his statement.

We know the Jewish community is particularly vulnerable to hate propaganda throughout the world, and many of the most powerful terrorist organizations in existence today, such as Hamas, Hezbollah, and Daesh, rely upon the promotion of hatred with a particular focus on anti-Semitism to inspire acts of terror.

There are many examples of this internationally, such as the Hyper Cacher supermarket attack aimed at French Jewry, which was tied to the *Charlie Hebdo* attacks, and the horrendous attack on a Jewish religious centre in Mumbai that was specifically targeted as part of a larger Islamist-inspired terrorist attack in 2008.

In fact, terror attacks against Jews have taken place right across the globe. The Jewish community is quite cognizant of the threat it faces and knows that based on history, our community will continue to be the subject of terror attacks so long as incitement to hatred and radicalization continue around the world.

There is a tendency to think of terror as a foreign problem, but it is a Canadian problem too. In Canada the Jewish-owned West Edmonton Mall, as well as Jewish businesses worldwide, were the subject of a terror threat by al Shabaab, to the exclusion of non-Jewish-owned malls. We are not immune here in Canada.

The 2016 report on the terrorist threat to Canada cites Hezbollah, a listed terror group supported by the Iranian regime, as using its worldwide and Canadian networks for recruitment, fundraising, and procurement. Hezbollah remains a terror threat not only to the Jewish community but also to all Canadians, and it is believed to have a history of international terror operations, including the 1994 bombing of a Jewish community centre in Argentina. This is one of the reasons that B'nai Brith was supportive of the closing of the Iranian embassy in 2012 and believes it should not be reopened until the Iranian regime ends its support for terror and anti-Semitism.

B'nai Brith's annual audit of anti-Semitic incidents shows that anti-Semitism in Canada has remained relatively constant since 2011. With no active conflict occurring in Israel in 2015, 1,277 incidents were reported in that year. Harassment, including online harassment, has shown a general increase over five years. Vandalism declined to a 15-year low that year, while violence decreased slightly to 10 incidents. Our 2016 numbers will be released this spring.

Our Prime Minister is in Washington today, meeting for the first time with President Donald Trump. Canadians wish to maintain a positive relationship with the United States to enable efficient and speedy border crossings and trade. This requires taking our national security very seriously. Canada's counterterrorism and anti-radicalization efforts must acknowledge that specific identifiable groups—including Jewish, LGBTQ, Muslim, women, and others—are often the target for violence, and we must create a balanced framework to protect vulnerable societal groups from terrorism while maintaining important principles of freedom of speech within society.

Many often forget that minority Muslim groups are also targets of radical Islamist terror groups. Our community appreciates and supports the federal security infrastructure program, which supports the security needs of at-risk communities. It's unfortunate that children growing up in Canada today are made to realize that a police presence is required at Jewish synagogues during high holidays because of the ongoing threat of hate and violence.

Hatred is taught, and may prove the inspiration towards a violent pathway to radicalization. In this regard we should not forget that hate speech in Canada might play a role in sensitizing individuals to future radicalization efforts, whether in person or via the Internet, by desensitizing them to the humanity of their fellow human beings. Recently B'nai Brith exposed an Arabic-language local television show in Toronto, *AskMirna*, that had promoted holocaust denial. Rogers Television was not aware of any problems with the content, since they rely on the honour system and a complaint process. There is much work to be done in removing channels of hate from Canadian society, even from television and newspapers.

Those are my opening remarks, and Mr. Matas will now provide his update.

• (1535)

Mr. David Matas (Senior Legal Counsel, B'nai Brith Canada): Thank you very much.

On behalf of B'nai Brith Canada, I would like to address only one question posed in the "Our Security, Our Rights" green paper. The question, found on page 46 of the background document, is this: "Should the part of the definition of terrorist propaganda referring to the advocacy or promotion of terrorism offences in general be removed from the definition?"

Our answer to that question is no. Freedom of expression is a right that must be jealously guarded, but so must the right to be free from terrorism. Generally, human rights have to be viewed as a whole, and rights have to be balanced off against each other. Practically, what this means is that the rights of one set of people have to be balanced off against those of another. In this case, it is the right to security of the person of victims and potential victims of terrorism that must be balanced against the free speech rights of those advocating or promoting terrorism.

We see the addition to the definition of "terrorist propaganda" of advocacy or promotion of terrorism offences in general as a re-equilibration of the balance in light of the enhanced terrorist threat with which the planet in general and Canada in particular have been confronted. The world has changed, and the balance has to change too. Victims and potential victims need better protection than they

have had. Whether the addition overshoots the mark requires consideration, but conceptually the drift makes sense.

We have three suggestions, which we believe are consistent with the spirit of the current legislation.

One is to import a defence for the offences of promotion or advocacy that already exists for the offence of promotion of hatred. The Criminal Code now provides that no person shall be convicted of wilful promotion of hatred who in good faith intended to point out, for the purpose of removal, matters tending to produce feelings of hatred towards an identifiable group. Something similar could be drafted for the offences of advocacy and promotion of terrorist activity.

Second, the legislated offence prohibits promotion and advocacy of "terrorism offences in general" without indicating what those offences are. We assume that this phrase "terrorism offences in general" refers to terrorism offences set out in the definition of that phrase in the Criminal Code. We suggest that whether the assumption is correct or not, the phrase "terrorism offences in general" be defined so that it is clear which offences are intended.

Our third suggestion relates to the requirement of consent of the Attorney General. A requirement of this consent, which we welcome, has its own problems. The relevant attorney general for these offences is the federal government Attorney General only for the territories. For the provinces, the relevant attorneys general are the attorneys general of the provinces in which the alleged offences occur. Our experience with the offence of wilful promotion of hatred has been that some attorneys general were most reluctant to consent to prosecution of this offence, even in clear-cut cases.

From our experience with the hate speech laws, we have learned that allowing for any member of the public to launch proceedings against any other member of the public without screening means too little in the way of safeguards to free speech. Conversely, legislating a requirement of consent of the Attorney General, without more, is too much of an obstacle to the effective working of the law.

We would suggest that in addition to the requirement of Attorney General consent, there be guidelines. Attorneys general, we certainly hope, would not end up having experience combatting advocacy and promotion of terrorism sufficient to make them become experts in the matter. They would benefit from guidelines.

We have a few proposals to make by way of what these guidelines should be, but obviously they could be added to. Here are some of our suggestions.

First, generally consent should be forthcoming if the Office of the Attorney General is satisfied beyond a reasonable doubt that a prosecution will lead to a conviction.

Second, given the gravity of the offence of terrorism, exercise of the discretion not to prosecute and therefore not to consent, even when the prosecution is satisfied beyond a reasonable doubt that a prosecution will lead to a conviction, should be uncommon.

Third, the right to freedom of expression is a factor that must be considered in determining whether to consent to prosecution, but the right of potential victims to be free from terrorism and the threat of terrorism must be given priority.

Fourth, freedom of expression considerations alone should not justify denial of consent when the offence is otherwise made out.

Fifth, a person commits the offence whether he or she personally promotes or advocates terrorism or causes another to do so.

Sixth, promotion or advocacy of terrorism includes glorification of terrorism for the purpose of emulation.

Seventh, for the offence of advocacy or promotion of terrorism to be committed, there need not be a direct linkage between the advocacy or promotion and any specific terrorist act.

Eighth, for the offence to be committed, it is not necessary to establish that a person was in fact encouraged or induced to commit an act of terrorism because of the advocacy or promotion.

• (1540)

I'll stop there. Our general approach, both in proposing amendments and in suggesting guidelines, is that a law criminalizing advocacy or promotion of terrorism should not be too easy to invoke, but it should not be a dead letter either.

Thank you.

The Chair: Thank you very much.

We'll continue with our second witness. I'm not sure who's going to begin your 10 minutes either.

Go ahead, Ms. Chowdhury.

Ms. Safiah Chowdhury (Representative, Islamic Society of North America): Thank you for your invitation to address the Standing Committee on Public Safety and National Security. Muslims have felt under siege since 9/11 and generally excluded from public discourse about us, so we appreciate the opportunity to be part of the process re-examining Canada's national security framework.

The Islamic Society of North America of Canada, or ISNA Canada, was incorporated in 1982 and is an outgrowth of the Muslim Students Association of the United States and Canada, founded in the early 1960s. We have around 1,000 members across the country, from Vancouver to Prince Edward Island.

My name is Safiah Chowdhury. I hold an M.Phil. in Islamic studies and history from the University of Oxford and I am a member of ISNA Canada's executive committee.

With me is Dr. Katherine Bullock. She holds a Ph.D. in political science from the University of Toronto and teaches Islamic politics at the Mississauga campus of the University of Toronto. She was elected to the ISNA Canada board in 2015.

ISNA Canada is a grassroots community organization that serves the spiritual, psychological, educational, and social needs of the Muslim community. It operates mosques and Islamic schools; assists the poor through disbursement of charitable donations; operates food banks; provides pastoral care to congregants; organizes religious festivals, conferences and lectures, matrimonial services, and family events; and conducts funerals.

ISNA Canada promotes living in peace and with good relations with neighbours. It is part of the Canadian interfaith community. It is thus grounded in the everyday experiences of Muslims in Canada. Our imams, our religious leaders, face an overwhelmingly constant stream of people turning to them for assistance on all matters to do with life, often in crisis situations.

As Canadians working very closely with communities and families, we understand and share the need to protect against violence. We recognize that we live in an increasingly globalized and digitized world and that threats to our safety can thus come from anywhere and are more complicated than ever to track. This violence and these threats compromise not only our safety but the very quality of life that we cherish so dearly that ultimately allows us to thrive.

We know that you will be hearing or have already heard from a number of organizations, Muslim and non-Muslim, such as the National Council of Canadian Muslims, the Canadian Muslim Lawyers Association, and other civil liberty organizations, that the Anti-terrorism Act, the even more frightening Bill C-51, and now Bill C-23 privilege fear of threat over real rights. This bill compromises the very Charter of Rights and Freedoms upon which we purport to exist. The people whose rights it compromises, who now feel targeted and, ironically, unsafe, are the country's almost 1.1 million Muslims.

We are not here to repeat those arguments, most of which we endorse. We are, as you've heard, not legal experts. As representatives from a large community-based organization, we are here to tell you about the very human impact anti-terror legislation has on our communities, our dignity, and our ability to thrive. We will refer to two points in particular. The first is how the narrative around terrorism leads to a rise in fear of Muslims. The second is about the impact on freedom of speech.

On Islamophobia, since 9/11 there has been a sharp rise in hate crimes against Muslims in Canada. As the "war on terror" centralized Muslims as the primary source of terrorism, Muslim communities—everyday average individuals who are at home or going to work, school, the grocery store, or the community centre—came under scrutiny.

Statistics Canada data tells us that crimes against Muslims are increasing despite the overall drop in identity-based attacks on other communities. Despite these accounts, as Canadian Muslims ourselves, we know that these are under-reported numbers. People in our community don't report hate crimes. We typically tend to brush them off as isolated, perpetrated by "lone wolves", because historically this is what we have always been told.

That is despite the rise of right-wing extremism in Canada, which has been thriving and growing at alarming rates. Internal documents from CSIS, a body from this committee, suggest that extreme right-wing and white supremacist ideology has been the main ideological source for 17% of attacks in Canada. This is more than Islamic extremism. We know so acutely that this extreme right-wing hatred is often directed toward the Muslim community, from street harassment to the firebombing of a mosque in Peterborough, to the most recent example, on January 29, when six Muslims were ruthlessly killed in a Quebec mosque that had previously been targeted by these "lone wolf" white supremacists. These acts of violence by hatred-filled individuals are yet to be tried as terrorism, a term that seems to apply only to Muslims.

From what we know of the perpetrators of anti-Muslim attacks, they are propelled by dangerous rhetoric that positions Muslims as problems, as threats to the security of the state. The discourse around the Anti-terrorism Act and Bill C-51 speaks to this. In fact, in your very own green paper on national security, the only threats identified come from organizations or countries associated with Islam.

It is a strange situation, honestly, to navigate. Rhetoric on national security targets and typecasts Muslims, who then are increasingly becoming the victim of terrorism-related offences due to this very same rhetoric.

• (1545)

It places us in the perilous position of needing to protect ourselves against threats of violence because the world and our country position us as the threat.

Ms. Katherine Bullock (Representative, Islamic Society of North America): Hello. I'm Katherine Bullock. When I start my lectures at my university, I usually explain why my name is Katherine Bullock and I'm dressed like this. I converted to Islam in 1994 and I started wearing the head scarf in the same year. I decided not to change my name when I converted.

What I teach as a professor is that one of the key problems of Bill C-51—indeed, of the Canadian counterterrorism approach in general—has been the move from what's called criminal space to prevention space. This is the move from "will" commit an offence to "may" commit an offence. In the move from "will" to "may", we enter the realm of interpretation.

In an environment of increasing Islamophobia, the "may" space becomes a space of problematizing and criminalizing Muslim faith communities for their everyday practices. Growing a beard or putting on a head scarf becomes a potential security threat rather than a spiritual expression. We have indeed seen this through the recent travel limitations to the United States that were imposed on visibly Muslim individuals simply for who they are.

As a professor in the university system, I am deeply committed to the importance of freedom of expression, freedom of thought, and freedom of conscience. I am especially worried about how Bill C-51 can lead to the curtailment of these core liberal values.

A recent round table with Muslim youth found that while most of them saw political and civic engagement as a key, core aspect of Canadian identity, most of them also felt that there was not enough of it in their community. One reason they gave was the fear amongst the youth of being attacked for voicing their opinions on controversial topics.

A similar finding is in the data collected by the last Environics survey of Canadian Muslim opinion, conducted in 2016, which found that "One in six (17%) says he or she has felt inhibited about doing so because of [race], ethnicity or religion. This impact is...to be expressed [most] by Canadian-born Muslims (32%), those under 35 years of age (24%), and those who have experienced difficulties crossing borders (27%)."

This finding is troubling for three reasons at least. The first, of course, is the signal that a segment of a democratic society feels less than equal to their fellow citizens in expressing their points of view, without which a democracy cannot properly function. The second problem is that the feelings of inhibition, of not feeling free to speak out, are higher amongst Canadian-born and the youth, who are the future of our community, the very segment of the Muslim community who should feel most embraced for their Canadianness. Finally, those who feel inhibited in expressing their political or social opinions also express a weakening sense of belonging to Canada, 13%. I'm sure we don't have to tell you that the best defence Canada has is a population that feels a strong sense of belonging to Canada.

Candice Malcolm, a journalist for TheRebel, in her praise for Bill C-51, argued that "while our rights and freedoms [are sacred and] should never be needlessly sacrificed, freedom means nothing if we are not safe." In fact, this is not true. Over the centuries, people have sacrificed their lives to bring freedom to their country. Safety without freedom is Pinochet's Chile, Stalin's USSR, Mao's China, Castro's Cuba.

We do not want to turn Canadian Muslims into the canary in the mine, making them into scapegoats, political prisoners, or prisoners of conscience. The terrain for what constitutes support for terrorism currently represents a slippery slope whereby core Muslim traditions and concepts—noble concepts, like sharia, hijab, and even the much-maligned jihad, which is a concept that means "to struggle for justice", wrongly slandered as "holy war"—are refracted through an Islamophobic lens into prohibited speech in a liberal democracy.

• (1550)

The youths, the converts, the uninformed among the Muslims as well as the wider community need to be able to hold seminars and lectures and round tables and private conversations about these religious verses and traditions and concepts, the very ones the Muslim extremists call upon when trying to justify their turn to violence: what remains of jihad, what are the proper rules of engagement in war, what about participating in secular democracies, what is extremism from an Islamic point of view, what is the sharia, and what is the caliphate?

Bill C-51, Bill C-23, the preceding Anti-terrorism Act and the narrative swirling around it in the mainstream, especially in the right-wing media, do not give us this space to investigate these questions. A thought that cannot be debated in the open, in the cleansing light of day, will go underground and grow up twisted in the swamps of darkness.

The Chair: I need you to wind up pretty quickly.

Ms. Katherine Bullock: To sum up, as representatives of a Canadian Muslim association we have talked about the impact of Bill C-51. The narrative about it is harming the Muslim community, first by leading to an increase in Islamophobia and then by having a negative impact on freedom of speech.

No religion condones the killing of innocent civilians. Canadian Muslims are committed to Canada's national security. We just do not want it to be at our expense.

Thank you for listening.

• (1555)

The Chair: Thank you.

We'll begin our questioning with Ms. Damoff.

Ms. Pam Damoff (Oakville North—Burlington, Lib.): I'd like to thank both groups for coming here today and sharing your testimony with us. It's very helpful as we're studying our national security framework.

I'd like to direct my first question to both of you.

We've heard testimony about the need to engage the community, and you've spoken about it. One of our witnesses talked about the solutions or strategies that shouldn't be legislative or come from the top down but come from police, clubs, mosques, and church organizations. We've heard and seen that the more communities work together, the better educated they are about each other.

I wonder if you could talk about any community programs you may be aware of that are useful, and ways we can engage young people in particular to ensure they are part of the solution.

I'll start with B'nai Brith.

Mr. Michael Mostyn: Engaging the youth is absolutely imperative. As I mentioned in my opening remarks, we want to make sure.... I think that all of us here in Canada support and promote each other's values, the values of tolerance and support of the other.

Many groups do interfaith, inter-ethnic work. B'nai Brith has a long history of doing that as well, working with other community

groups. It's important. It's important to do it in the schools as well, to begin teaching that we're all human beings.

It's also important for community groups to stand up when they see hate within their own communities and be the voice to say it's wrong, that this is my fellow Canadian and their ethnicity, their religion, or their skin colour doesn't matter.

We need a lot more of that in this country, and I'd like to see the government encourage that by working with various community groups, because I don't think we're seeing enough of that.

Ms. Pam Damoff: Ladies?

Ms. Safiah Chowdhury: I would second his comments.

A lot of work is occurring through ISNA and also through a number of other Muslim organizations that focus on youth development.

I often identify as a child of the post-9/11 world, growing up as a young Muslim woman who was identified first as Muslim, and then everything else followed. That's not an identity I chose for myself. It's an identity that was often imposed on me.

One of the key parts of helping me make sense of this, of navigating my identity in a world that positions us as threats when we know that often we are the victim as well, was Muslim organizations. Muslim Youth of North America—MYNA, we call it—is a subsidiary of ISNA. It was essential because it allowed me to be a teenager, go to camp, go canoeing, go skating, whatever it was, and do so unproblematically. There were no questions of why I wear that on my head, my thoughts on this issue or this notion of being oppressed and those kinds of things, or if I was in need of being saved. It provided a safe space to just be me.

Ms. Pam Damoff: How can the government assist in promoting that, though?

Ms. Safiah Chowdhury: I think a key component is that it's difficult to be unproblematically young. You ask lots of times foolish questions as you're exploring and learning about your place in the world and distilling truth from falsehoods. A lot of times the discourse that comes from the top is one that positions our communities as always needing to be on the defensive. I think the government can show leadership by reaffirming our place as equal parts of this community, by allowing us to have the space to probe and to question and to explore, and not always having to explain ourselves foremost as Muslims but to exist as people who belong to a society with everyone else.

Ms. Pam Damoff: I'm going to change gears just a bit, and I have limited time. You mentioned young people and particular problems that they had faced. We all know there are people who have been on the passenger protect program. I'm just wondering.... You know that Minister Goodale has put in place in place a passenger protect inquiries office. Have you any recommendations on that, or have you discussed as a group ways that you'd like to see the government move to help people to have their names removed when they're wrongly on that list,?

•(1600)

Ms. Safiah Chowdhury: To be honest, we haven't done a lot of that work. I haven't, and I don't know if Dr. Bullock.... Flying is always a matter of anxiety for us because of these kinds of provisions, and that requires immediate addressing. I think in our increasingly digitized world, there are ways to vet people or to know who's who without simply their names. We know that people have the same names often. We know six-year-olds have the same names as 45-year-olds, and those kinds of things, so I would explore a number of options there.

The behaviour that gets criminalized, I think, is also of concern, and that should be part of the inquiry. What is the reason the original person was even put on the list to begin with? What is the behaviour that was criminalized?

I don't know if you want to add anything.

Mr. David Matas: Yes, I could add something here, because I've had some experience with this. It's very difficult to find out what's going on if you're stopped or queried. There are different regimes. Typically what happens is that if you want to question it, they might show it to a judge, but they won't show it to you and they won't show it to your lawyer, so the whole thing has an air of mystery to it.

There needs to be some way of correcting mistakes. Also, because of the way the records are kept, once something is there, it never disappears, but a comment may be added on. What happens is that once you're stopped, you're always stopped while somebody reads through everything and figures out what's going on.

The system, I would say, needs more accountability, more transparency, and there needs to be a possibility of completely eradicating a mistaken record.

Ms. Pam Damoff: Thank you.

The Chair: Mr. Clement is next.

Hon. Tony Clement (Parry Sound—Muskoka, CPC): Thank you to both groups for being here.

I wanted to start with Mr. Mostyn. I have a quote from previous testimony by your group, B'nai Brith, before the hearings pertaining to Bill C-51 in the previous Parliament, where Marvin Kurtz of your organization said:

Canadian law in the form of a series of Supreme Court of Canada decisions has frequently confirmed the propriety of legal limitations on hate speech, recognizing the tie between hate speech and hate crimes. We say that the tie between speech and action or crime is even greater in the case of the promotion of terror, which is why we support the provisions of Bill C-51....

Do you still agree with that assessment and agree that Bill C-51 is an effective way to assist in this issue?

Mr. David Matas: Yes. There's a back-and-forth on this issue, and we're definitely on the side of using the law to deal with these phenomena of incitement to hatred and incitement to terrorism. As I indicated in the preliminary remarks, there is an issue there, freedom of expression, and it requires a balancing of rights, but we, I think, should avoid absolutism of any right over any other right, including an absolutism of freedom of expression.

We have seen an increased threat of terrorism in the last years that requires, I would say, an increasing legislative action so that it is effective to deal with that incitement to terrorism.

Hon. Tony Clement: We've had Bill C-51 in place for over a year and a half now. Is there anything that has happened that in your view derogates from that point of view of the balance that has been struck?

Mr. David Matas: I wouldn't identify a use or abuse of the law that's been a flagrant concern to us, but I think it still could be improved, so we are making some suggestions.

I take the point of my colleagues that a law can be discriminatorily enforced, and we have to guard against that, but simply because there is a potential for abuse of a law—any law—doesn't mean we shouldn't have that law. I think we have to look at the law to see if it serves a purpose when it's functioning properly. Certainly this law, when it is functioning properly, does serve a purpose.

•(1605)

Hon. Tony Clement: Thank you.

How much time do I have?

The Chair: You have four minutes.

Hon. Tony Clement: To our representatives from ISNA, thank you for being here.

Professor Bullock, since you raised the issue of jihad, I have a couple of questions about that, because I have learned in my travels that there's a concept in your religion of a greater jihad and a lesser jihad, the greater jihad being the struggle within the soul, the lesser jihad being the struggle for justice externally from your own person. Is that a fair working assessment?

Ms. Katherine Bullock: Yes, that's correct.

Hon. Tony Clement: Which is more important?

Ms. Katherine Bullock: Obviously it's the greater jihad. That's why it's called "greater".

Hon. Tony Clement: They don't call it "greater jihad" for nothing.

Ms. Katherine Bullock: Yes, that's right.

Hon. Tony Clement: Is that a view that is shared by all Muslims and Muslim academics, or is there dissenting opinion?

Ms. Katherine Bullock: This statement about the greater jihad and the lesser jihad comes from a saying of Muhammad, which is called a Hadith, so there can't be dissension or not dissension. It is something he said, and so we accept it and support it as a definition.

What happens in the implementation is that when you're going to define the lesser jihad, which includes physical fighting like warfare, when is that going to be appropriate or not appropriate? I think that's the realm in which differences would occur.

Hon. Tony Clement: Yes, because there are some who perhaps, by their activity or actions, lay greater emphasis on the external fighting.

Ms. Katherine Bullock: Yes. Yes, but I'd like to add, just for more context, that going on religious pilgrimages is called jihad for women, for example, and when women stay home, look after the family, wash the socks, and deal with the laundry every day, this is called a jihad for women, so it's a very multi-dimensional concept.

Hon. Tony Clement: It's come into the greater consciousness of non-Muslims, of course, because those who use violence—

Ms. Katherine Bullock: Yes.

Hon. Tony Clement: —claim jihad—

Ms. Katherine Bullock: Yes.

Hon. Tony Clement: —as their justification.

This leads to my ultimate question to you. How can we—me, a non-Muslim, a man of the Christian faith in my particular instance, but others as well—help you and your organization within our country successfully have a peaceful dialogue on these kinds of issues so that those who use jihad as a method to rally people to do violent things know that it is not the recourse that we would like to see? How do we help you?

Ms. Katherine Bullock: That's a really good question, and I'm thinking on my feet, but I would suggest maybe three points.

The first one is not to criminalize conversation about jihad. For example, if our mosque wanted to organize a conference on what jihad is to help educate youth, we don't expect to see five CSIS agents taking notes and putting us under suspicion for having had this conversation. That would be my first one: that we feel free to have these conversations without thinking that it's going to suddenly make us a security issue.

The second one is the whole issue of entrapment. We know that there have been spies sent in. The youth are agitated and upset, and they're asking, "What's going on? How do we deal with this? The west is doing this and this and this to Muslims, and I've heard so-and-so say such-and-such." Youth are confused. They can easily be put one way or the other. Then the spy hopes to amplify, to make things worse, and eventually to lead them down the wrong path, whereas it could have been an opportunity to have a mentor, a guide, or someone to help sort of bring them back to the right path, so I think there needs to be a stop of the whole entrapment aspect.

The Chair: We're a little over time, but if you have a third point, I'm going to let you finish it.

Ms. Katherine Bullock: It's okay. I'll stop there. It might come up later.

The Chair: Okay.

Monsieur Dubé is next.

•(1610)

[*Translation*]

Mr. Matthew Dubé (Beloeil—Chambly, NDP): Thank you, Mr. Chair.

[*English*]

Mr. Matthew Dubé: To the representatives of ISNA, if I'm not mistaken, not only was Bill C-51 brought up, but also Bill C-21 and Bill C-23.

I'm wondering if you could perhaps expand on that, because we are continuing this push towards a more integrated border with our American neighbours. I'm wondering what concerns you have with those pieces of legislation and with the whole plan in general.

Ms. Safiah Chowdhury: The bills around the security of the border between Canada and the United States and the information

sharing between them are, from our point of view, all wrapped up—of course not in a legal sense but from a community perspective—in the overall discourse on how anti-terror legislation or a national security protocol disproportionately impacts our ability to simply do basic, average things like cross the border.

In the last couple of weeks we've seen seven or eight Muslim individuals sent back from the United States at a border crossing under the screening that occurs in, I think, eight airports. Many of us have been arbitrarily questioned for no reason whatsoever, but simply because we are Muslim. We always build in extra time to go to the airport because of the extra screening we expect to go through. Right now when I travel through, say, Pearson, if I am questioned in a way I don't like or I think infringes upon my rights or I think is trying to put me in a position that makes me answer questions that typecast me in a certain way, I have the opportunity to leave and go back to my home. However, under these provisions that are being presented, there will not be that opportunity. I will be forced to enter as a Canadian on Canadian soil and to answer these questions, especially given the climate in the United States. This is really worrying.

There are also concerns about how it disproportionately affects permanent residents, particularly of Muslim backgrounds, and how this may impact their ability to come back to their home country, the country they have adopted as home. There are a number of—

Mr. Matthew Dubé: To follow up on one of the points you made, the concern raised in particular in the media yesterday about a line of questioning leading to someone stepping back from a pre-clearance zone just because it's essentially abuse is a legitimate one and one that you can identify with.

Ms. Safiah Chowdhury: Yes. Absolutely. Definitely. I go to the United States often, so it really worries me.

Ms. Katherine Bullock: You always get randomly checked at the airport.

I would just add one more thing—

Mr. Matthew Dubé: Yes, of course.

Ms. Katherine Bullock: We know there has been a really disreputable history in that regard with what happened to Maher Arar and the other Canadian citizens who have borne the brunt of the U.S. rendering them to the black sites for torture, so we have reason to fear.

Canada should maintain sovereignty over itself.

Mr. Matthew Dubé: Keeping with that thought, you were asked about the no-fly list. I understand you don't necessarily have any research in front of you, but from what you know, even if it's just from hearsay, how much of an impact does the fact that we also use the American list have?

Ms. Safiah Chowdhury: It has a profound impact. I'm lucky my name is nondescript enough and no one shares it. Typically I undergo what I will call the average amount of annoyance that Muslims undergo, but I ultimately get through. However, there are many friends, many family members, many individuals in our community who, when we say, "Let's have an event" or "Let's go to the United States to go shopping" or whatever, will say, "No, I can't. I was held once for 12 hours and sent back" or "No, they searched my entire car. They went through everything. They called all the people in my contact numbers."

No one wants to be subjected to this. It's degrading. It's dehumanizing. I would say that for probably at least a third of Muslims I know, that's the case.

Mr. Matthew Dubé: Thank you.

I want to focus as well on the question of "will" versus "may" in the language of Bill C-51.

When we visited the counter-radicalization centre in Montreal, one of the people who work there brought up a point about how using "will" versus "may" and the way that's defined can actually be problematic, in the sense that if you have a youth who's a member of any community and who is seen as someone who is becoming radicalized, when the community is trying to reach out and counter that radicalization—and this point was also made by our friends from B'nai Brith—the community wants to look after its own, if I can express it that way.

The point he was making was that when you use "may", you're losing that person, because they have to report it to the RCMP, and it sort of leads that young person down a different path.

Do you feel that is a tangible consequence, and do you have any further comments on that?

• (1615)

Ms. Katherine Bullock: It's definitely tangible, because of the fear that it creates. The community is really upset about the whole counter-radicalization thing, because we feel completely targeted.

The RCMP once visited a Muslim student association and told them stuff about how not to get involved with terrorism. The youth got extremely upset because they were just students organizing a fundraiser for a food bank. What does that have to do with the RCMP? What it does is target the Muslim aspect of their identity.

Extremists come in all shapes and sizes. Just because you're Muslim doesn't mean you're going to be an extremist. Even if you're a radical, it doesn't mean you're going to be a violent person.

As I said before, it's creating a space where core concepts of Muslim belief, like putting on a scarf, mean you are radicalizing. If you grow a beard, you're radicalizing. All of these so-called indicators and the whole concept of the conveyor belt to terrorism are completely wrong.

Mr. Matthew Dubé: Thank you.

With the time I have left, I'll address B'nai Brith.

The federal government has put forward the idea of a counter-radicalization coordinator, and you floated out some ideas earlier

about how this issue could be tackled. What would you be looking for from that coordinator to go down a path of success?

Mr. Michael Mostyn: I have one thought, and my colleague may have one as well.

Something that I've noticed in speaking to various police panels or national security panels about the anti-radicalization process is that you're just talking about the focus within one community. I think it is important to expand that beyond one community. For example, when the Jewish community is being targeted for hate, we are not involved in those consultations. There are other minority communities that are sometimes being targeted for hate, yet police and government often don't involve vulnerable communities that are being targeted because maybe we're outsiders to another community.

I don't quite know how you solve a problem if, for example, there's a hatred towards women or a minority group, and the people who are becoming slowly radicalized against them aren't forced to confront them and see that they are human beings themselves. It seems that there is an inherent problem with that whole process.

The Chair: I'm afraid I need to end it there, but you might get that thought in again.

Mr. Spengemann is next.

Mr. Sven Spengemann (Mississauga—Lakeshore, Lib.): Mr. Chair, thank you very much, and thank you to all four witnesses and both groups, B'nai Brith and ISNA, for being here today.

In many respects I see this as a continuation, both symbolic and substantive, of the coming together that went across the country following the terrorist attacks in Quebec on January 29. From that perspective, I really commend you for being here. I think it's evident from the exchange that we've had so far that this is a conversation that has to continue, not only at the level of government but in communities across our country.

I wanted to pick up on the theme of how to arrive at a personality that embodies so much hatred that somebody would go into a mosque or into any faith-based organization and shoot people engaged in the holiest act, which is the act of prayer. What leads a person to that mind frame?

Maybe I'll ask my first question to ISNA.

There was a seminar last fall hosted by ISNA on the response by communities to radicalization narratives. I'm wondering if you could give the committee a bit of a flavour of the fallout from that discussion, what came from it that you thought was most valuable, and how we could perhaps harness it in thinking about our national security framework.

Ms. Katherine Bullock: Actually, I don't know if you would like the product of that panel, because it was very critical of the government's approach to the whole counter-radicalization concept.

I think that with the interpretations of the issues around the "will" space and the "may" space that I've mentioned, the rising Islamophobia, the curtailment of freedom of speech, the targeting of the Muslim identity as the religious identity of radicalism, what emerges is that basically the whole preventive approach focuses on Islam as if it were the problem, whereas in fact there's a big socio-political context that is ignored.

Youth were upset, for example, when Canada was in Afghanistan fighting against fellow Muslims. This leads people to feel that there's injustice in the world against Muslims. It has nothing to do with being religious or with a religious identity. It's about how to react to political issues in the world.

Counter-radicalization focuses too much on the religious aspect and pulls it out of context. It doesn't focus on state violence. It doesn't focus on exclusion, discrimination, Islamophobia, alienation, or any of those things.

It wasn't a policy panel. It wasn't something for government people to take notes about to make policy. It was more like an academic approach.

Probably I should stop there. I think I have that professorial talking-too-long thing.

• (1620)

Mr. Sven Spengemann: Briefly, what were the non-Islamic factors? I've spoken to a number of imams in our communities, and they've quite frankly said, "Yes, we have a problem with radicalization. We as imams are worried about our youth going down the wrong path."

What kinds of factors do we need to pay attention to that are perhaps a lot more significant than religion itself?

Ms. Katherine Bullock: The sense that the youth have that the west is against Islam is one of the key factors in gravitating them towards extremist ideology. The more you can do to make them feel that they are Canadian, that they belong to Canada, that they can grow a beard, wear a face veil, put on their long gown, and still be seen as true Canadians who embrace Canadian values, the more you can drain away that anti-western narrative.

Mr. Sven Spengemann: Okay.

Is it fair to say, without wanting to oversimplify it, that a much greater reciprocal openness at the community level would be of benefit? I stress "reciprocal".

Ms. Katherine Bullock: Absolutely. There is a siege mentality among many Muslim communities that has led to a withdrawing, like a ghettoization and a fear of interacting, because you're just not sure if you're going to get attacked.

Mr. Sven Spengemann: That's really helpful.

I'm going to ask our friends from B'nai Brith, but please feel free to jump into this discussion as well.

The Minister of Public Safety has in his mandate letter the establishment of an office of community outreach and counter-radicalization. Again very specifically, with the mandate of doing what we can to stop hatred from developing, or in a more difficult sense, undoing hatred, but at least stopping it in the first place, what would be your expectations of that office and its connection with our communities across Canada?

Mr. David Matas: One thing that's going on in Winnipeg is something called the Jewish-Muslim dialogue. People from the two communities just get together and talk about current issues. That's the sort of experience that can be replicated across the country and

across different communities, and the government could have a role in facilitating those sorts of dialogues.

Often what we're dealing with in radicalization are stereotypes and encoding. The target communities are more sensitized to what's going on because it's directed against them. If they can start saying, "Well, we don't like to hear you saying this, and we're concerned about this sort of dialogue", or "This is what it means to us", then I think that's a useful conversation to have, and I think the government can help it happen.

Mr. Sven Spengemann: Thank you.

Mr. Mostyn, do you have some thoughts?

Mr. Michael Mostyn: The only thing I would add to that is I think it's very important to have honest, open conversations. I think there's a tendency in these sorts of dialogues to be very politically correct. You can't get to the root causes of these problems, and dialogues will fall apart because you're not dealing with the big issues. It's a bit like the Middle Eastern peace process or something like that.

As long as communities, through government facilitation, are willing to have those honest, real, human-to-human dialogues, I think they could be very successful.

Mr. Sven Spengemann: Just in the last few seconds, from that last comment, you would even pass the message to government to be less politically correct to encourage frank and open discussion. That also suggests to a lot of the members of Parliament who go to their ridings and try to convene town halls and discussion groups on this question that they should put the big questions into the room quite openly.

• (1625)

Mr. Michael Mostyn: Absolutely, because there are real issues. I can tell you the Jewish community is extremely fearful about radicalization issues.

As I said in my opening statements, we have a police presence at all of our religious institutions all the time now. We see what's being written on the Internet. I gave an example of that television program. That was something B'nai Brith ourselves translated: we shut that show down. There are a number of examples of newspaper articles. One was in Windsor last year, and one was in London, Ontario. There was promotion of terrorism within those papers.

I can tell you that the most disturbing thing to the local Jewish communities there was the fact that, unfortunately, again, it was whistle-blowers calling it out, and that there should have really been a public outcry on this widespread publication.

There has to be a more open dialogue about what's going on in our society.

The Chair: Thank you.

Mr. Sven Spengemann: Thank you very much.

The Chair: Mr. Miller is going to get five minutes.

Mr. Larry Miller (Bruce—Grey—Owen Sound, CPC): Thank you, Mr. Chair.

Thank you to all of you for being here today.

Ms. Bullock, in your opening remarks, you spent quite a bit of time on Bill C-51, and I presume you realize that today is about the national security framework discussion. I just wanted to point that out.

Ms. Chowdhury, my time is limited, so I have a lot of yes-and-no questions. Can I ask you and your group whether you believe in sharia law?

Ms. Safiah Chowdhury: Can you define sharia law for me?

Mr. Larry Miller: Maybe you should define it for me. You read different things. You tell me.

The part of sharia law that I'm referring to and that you hear about is oppression of women like yourself, etc. In this day and age and in any country, I don't think that's good.

Ms. Safiah Chowdhury: No, I don't believe in oppressing women.

Mr. Larry Miller: Okay. Are there any other parts of it that you do agree with?

Ms. Safiah Chowdhury: I believe it's my religious duty to pray five times a day. I believe in respecting others. I believe in fasting, challenging myself, and testing my willpower. To me, these are all components of sharia.

Mr. Larry Miller: I don't think any member of any other religion would have a problem with that.

Where I'm going on this is radical Islam. Do you approve of it?

Ms. Safiah Chowdhury: Again, could you define "radical Islam"?

Mr. Larry Miller: I mean terrorist attacks, that part, radicalized.

Ms. Safiah Chowdhury: No, not at all, never.

Mr. Larry Miller: Okay. Has your organization ever come out and condemned that kind of happening, no matter where it is?

Ms. Safiah Chowdhury: Definitely, a number of times.

Mr. Larry Miller: Okay. I'd be interested in seeing some of that.

The media have created this word "Islamophobia", and nobody really knows what it means. If I were to come out and criticize radical Islam, meaning the terrorist component and the bad part of it, would I be considered Islamophobic because of that, in your view?

Ms. Safiah Chowdhury: No, I don't think the expressed condemnations of any attacks on individuals would constitute Islamophobia, whether or not they were done by Muslims, but I think oftentimes the rhetoric around it could. It could say, "I condemn this attack because Muslims are known to be violent individuals courtesy of their faith." I think that can lend itself to Islamophobia. Again, it's in the framing, as to your question about sharia. It's not black and white.

Mr. Larry Miller: Okay.

I believe that it was Ms. Bullock who mentioned entrapment. I'm not sure of the exact context, but that almost made it sound as though it's the spies' fault. Police have to do a job today, and it doesn't matter in what component of society. As a taxpayer and a citizen, I have to hope that the police spend their resources, time, and whatever in the proper places because they suspect that something is going wrong

there. Are you saying that there's a larger presence in mosques, say, than in other religious facilities? If there is, what's the reason for that?

Ms. Katherine Bullock: Wouldn't it by definition be secret, so we wouldn't know?

•(1630)

Mr. Larry Miller: Well, you seemed to talk, though, Ms. Bullock, as if it were quite prominent. You knew who was in there taking notes or whatever.

Ms. Katherine Bullock: Oh.

Mr. Larry Miller: Those were your words, not mine, or maybe that was Ms. Chowdhury.

Ms. Katherine Bullock: Well, we know with the whole Toronto 18 thing that there were at least two spies who were, in my opinion, leading the youth down the wrong path. They could have really turned that around.

Safiah has a story to narrate about her experience at Queen's.

Ms. Safiah Chowdhury: Yes, Queen's is where I did my undergraduate university studies.

Mr. Larry Miller: Can you be very brief? My time is limited.

Ms. Safiah Chowdhury: Okay. It's about a number of times when there were events. The community at Queen's is small, and typically you know people. Oftentimes at events, particularly the ones around Muslims or national security, there would be one or two individuals no one recognized—we didn't know where they came from—who were scribbling away at notes. As a result, many of us felt fearful to talk.

We don't know who they were. They would never identify themselves.

Also, we would sometimes see these individuals in our prayer space and at our events, which were innocuous things such as breaking our fast or reading books. These individuals would be around, which then impacted our ability to feel safe and to feel free to speak our minds.

Mr. Larry Miller: Okay. Thank you.

The Chair: I'm afraid that's all the time we have for this panel. We'll thank our witnesses and take a very quick turnaround so we can make sure to get in a full hour for the second panel.

Thank you very much.

Voices: Thank you.

•(1630)

(Pause)

•(1635)

The Chair: Thank you to our witnesses. We have Amnesty International's Béatrice Vaugrante with us via teleconference.

[*Translation*]

Welcome and thank you for being here.

[*English*]

We also have Alex Neve, the secretary general. Thank you.

We're going to begin with Amnesty International because we can see Béatrice. It's 10 minutes, and after that we'll have Professor Leuprecht. I don't know how you're going to split your 10 minutes.

Mr. Alex Neve (Secretary General, Amnesty International Canada): We will go back and forth, but seamlessly, and thank you for letting us go first. I assure you, Mr. Chair, you would not want to lose Béatrice Vaigrante.

Since the September 11 terrorist attacks in the United States, a misleading debate has taken hold about the relationship between national security and human rights. The debate assumes an inescapable trade-off between the two goals, that more security requires weaker human rights protection and that stronger regard for human rights will inevitably leave us more insecure.

That could not be further from the truth.

Governments have a vital obligation. Part of their responsibility is to uphold human rights, to prevent terrorist attacks, and hold accountable individuals who commit such acts. It is also essential that laws and actions taken to counter terrorism comply with international human rights. These two responsibilities do not compete with each other; they are one and the same.

The current view of Canada's national security framework offers a valuable opportunity to reject this false dichotomy and affirm that the strongest approach to upholding national security is one grounded in full regard for human rights.

The timing and the necessity of your deliberations on this review are imperative. It is indeed both opportune and urgent. It is opportune because an opening such as the present one, a wide-ranging review of our national security framework, comes along infrequently. It's an opportunity that should not be squandered.

It is opportune as well because a range of lessons have been learned in Canada over the past 15 years through individual cases, court rulings, and UN recommendations that highlight the human cost of national security practices that violate rights and point to the needed reforms.

The urgency is threefold.

First, as we highlight in our submission—you've heard from many others as well—numerous Canadian security laws, policies, and practices contravene our country's international human rights obligations. Those shortcomings must be addressed.

Second, Amnesty International continues to document extensive, serious, and, in many cases, mounting human rights violations associated with national security practices around the world. In that context, it is so crucial that Canada set a different course and example.

Third, of course, the urgency has increased dramatically with the election of U.S. President Donald Trump. President Trump has made it clear that he does not agree with, for instance, the ban on torture when it comes to national security operations. Faced with that prospect of disregard for human rights by our closest national security partner, it is absolutely crucial that our own national security framework be strengthened as never before in its clear regard for human rights.

Amnesty International has recommended a human rights-based approach to national security for Canada with three main elements.

I'm now going to turn to my colleague Béatrice Vaigrante, who will speak about the first two elements, and then I'll come back to the third.

● (1640)

The Chair: Go ahead.

[*Translation*]

Ms. Béatrice Vaigrante (Executive Director, Francophone Section, Amnesty International Canada): Thank you very much, Mr. Chair. I will deliver my remarks in French.

Human rights are a foundational pillar. When governments adopted the Universal Declaration of Human Rights in 1948, they noted that the “recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world”. That means that human rights are also the foundation of security.

As governments have elaborated binding treaties pertaining to human rights, the relationship between security and human rights has been at the very core. Some rights, such as freedom of expression, are defined so as to recognize the inherent limitations of imperatives such as national security, narrowly defined and carefully circumscribed. Other rights, such as liberty and security of the person, have no inherent limitations but can be suspended for a short period when a government faces a “public emergency threatening the life of the nation”.

Finally, there are a number of rights, including the prohibition against torture and ill treatment and the right to freedom, which cannot be abrogated under any circumstance. This approach illustrates that governments have always been attuned to the interconnected relationship between rights and security.

As a result, Amnesty International's first recommendation is that Canada recognize regard for human rights as a foundational pillar of Canada's national security framework. A foundational pillar risks being empty rhetoric unless backed up by effective safeguards.

Our second recommendation is therefore that Canada adopt four essential safeguards. First, there is no specific reference to, let alone requirement to ensure compliance with, human rights under the Charter of Rights, the Canadian Human Rights Act or binding international standards in most Canadian national security legislation, except the Immigration and Refugee Protection Act.

The first safeguard should be that Canadian national security laws should be amended...

The Chair: Excuse me, Ms. Vaigrante. For the benefit of the interpreters, could you please speak more slowly? We will give you an extra minute.

Ms. Béatrice Vaigrante: Thank you very much, and my apologies to the interpreters.

All Canadian national security laws should include a provision requiring legislation to be interpreted and applied consistent with the Charter of Rights, the Canadian Human Rights Act, and binding international human rights standards.

Additionally, there should be specific and binding reference to the rights most frequently at stake: the right to life; the ban on torture and ill-treatment; the prohibition of discrimination; safeguards against unlawful arrest, arbitrary detention and unfair trials; freedoms of expression, association and assembly; freedom of religion; privacy rights; and the protection against refoulement.

Next, a clear lesson highlighted in the Maher Arar inquiry was the inadequacy of national security review and oversight bodies and processes in Canada. Commissioner Dennis O'Connor proposed a comprehensive new model of integrated review that would subject all agencies to robust review, by bodies that possess the necessary powers and operate in an integrated manner. Unfortunately, ten years later, that recommendation has not been taken up.

Bill C-22 would establish a national security committee of parliamentarians, but that proposal is not enough.

This leads to our second safeguard. Building on Bill C-22, Canada's model of national security review and oversight must be reformed to ensure all agencies are subject to robust, real-time review by expert and independent bodies which are able to cooperate with each other in an integrated manner.

Third, national security measures that encroach on rights should be exceptional and not permanent. However, national security measures adopted by governments are rarely temporary. Most national security provisions are part of Canadian law, including some that violate or undermine human rights provisions. Regular review helps safeguard against that possibility.

As the third safeguard therefore, Parliament should ensure regular reviews of national security laws, at least every three years.

Our final proposed safeguard is accounting for national security-related human rights violations from the past. The compensation and official apology provided to Maher Arar and Benamar Benatta are rare instances of redress being provided to individuals who have experienced serious violations.

Mr. Almalki, Mr. Abou-Elmaati and Mr. Nureddin have not been compensated for human rights violations documented in a 2008 judicial inquiry report from former Supreme Court of Canada Justice Frank Iacobucci. Omar Khadr has had no redress for charter violations upheld in unanimous 2008 and 2010 Supreme Court of Canada judgments. Other cases remain similarly unresolved.

Our fourth guarantee is therefore to appoint a judge or other independent expert to quickly review and resolve, consistent with international human rights principles, all pending legal cases involving claims for redress related to human rights violations arising in the context of national security operations.

My colleague Alex Neve will conclude our remarks.

Thank you.

•(1645)

[English]

The Chair: You have another minute and a half or so.

Mr. Alex Neve: Recommendation one is the recognition of human rights as a foundational pillar. Recommendation two is the adoption of a number of effective safeguards to deliver human rights in our national security framework. The third recommendation is, of course, for a number of specific reforms that need to take place in order to ensure compliance with our international human rights obligations.

I do not have time to go through all of those. I would just like to point to nine reforms that we think need to happen.

The first is to reform Canadian law to ensure compliance with the absolute ban on deportations to torture.

Second, repeal security certificate and other security-related immigration proceedings that do not live up to international fair trial standards.

Third, withdraw or reform ministerial directions on intelligence sharing and torture, which presently allow intelligence to be shared with other governments even if it may lead to torture and which similarly allow intelligence to be received even if it may have been obtained under torture.

Fourth, amend terrorism-related definitions to protect protest and free expression rights, as the exceptions currently protecting those rights in a variety of terrorism-related offences in several different statutes are inconsistent.

Fifth, reform the CSIS threat reduction warrants to conform to human rights obligations. There should be no consideration of activities by CSIS, or by any Canadian agency, that violate the charter or international human rights obligations.

Sixth, repeal the offence of promoting the commission of acts of terrorism in general, as it is vague, overreaching, and in violation of free expression rights. Existing criminal offences that deal with counselling, aiding and abetting, and other similar offences are sufficient.

Seventh, reform the information-sharing regime to better protect human rights, including strict safeguards to ensure the relevancy and accuracy of the information that is shared.

Eighth, update the proposed no-fly list appeal provisions to meet requirements of fairness.

Ninth, abolish recognizance with conditions provisions allowing detention without charge. Bill C-51's expansion of the length of time and the lowering of the threshold for such detentions falls below international norms with respect to arbitrary arrest and detention.

Thank you very much, Mr. Chair.

The Chair: Thank you very much.

I should add that I was not criticizing the interpreters. I just wanted to listen to it in French, and I needed it a little slower, but they also needed oxygen at one point.

[*Translation*]

We will begin with Mr. Leuprecht.

[*English*]

Professor Leuprecht, please go ahead.

Dr. Christian Leuprecht (Professor, Department of Political Science, Royal Military College of Canada, As an Individual): The challenge here, of course, is that the state on the one hand has an obligation to keep people safe and to maintain order, and on the other hand to safeguard our core and fundamental values of freedom, equality, and justice. We want to find the effective balance, as I think the previous speakers emphasized. We want to make sure that we always review our legislation and our framework, which I think is what the committee is doing here.

I think that's a very helpful thing to do. Ultimately we won't be able to enjoy these values if we can't provide for a safe, secure, orderly environment where people can enjoy them. Why do people want to come to Canada? It's because we are a safe, secure, orderly society where people can then live out their values.

We live in a globalized world where the institutions we have, and much of the legislation we have, were designed in the 19th and 20th centuries and are ill adapted to the movement and the flows we see in the 21st century. The challenge is how to craft new institutions of governance to try to get a handle on the flows that we see, both legal flows and illegal or illicit flows.

Part of the way we've worked at this is to push the borders out—that is, to stop thinking about borders as these lines in the sand and to start thinking about what borders look like in a world where, for instance, data or financial capital moves with relative freedom across the world.

I'm just coming from an hour in the Senate, where we were talking about terrorist financing. I think it's important that we make sure that we have discussion based on evidence rather than on various propositions. In this conversation there are always lots of propositions and relatively little evidence to support them.

We've having 85 reviews across the federal government, and I've always thought it important that we have a conversation about the national security framework. We're having all these isolated reviews about cyber, about the defence policy review, and about Bill C-51. I think this is an important, cohesive discussion to have.

I have concerns about the problem of what some people call “securitization”. Since 9/11 we've become very good at securitizing various problems. There's no more expensive way to deal with an issue than to securitize it, in part because every dollar we spend on security is money that we don't have to spend on prosperity, social harmony, and whatnot, so how do we pull back on that?

I think the most important contribution, which the committee is already making, is to make sure that we have a more informed discussion about these issues, because I think they're poorly understood.

In the case of the threat mitigation mandate, people didn't understand that CSIS couldn't technically talk to parents if they thought their kid was up to nothing good. There's good evidence that the mandate is working.

With regard to the intelligence-to-evidence problem, even among lawyers who think they know the issue quite well and have appeared before the committee, it's still not well understood.

Then there's the no-fly list. Most Canadians don't understand that when Canadians get refused, the main reason is not the passenger protect program but the fact that the majority of flights in this country pass over U.S. territory. Names get drawn against other lists. They think it's the Canadian government, when it's really not the Canadian government that's at fault here.

Here are a bunch of quick thoughts around some of these issues.

I think we want an effective tool kit and we want a broad tool kit, because we're dealing with a challenging threat environment and we need to innovate. When we innovate on security, however, there's always this big outcry. In other areas, such as health, education, or whatnot, we take it for granted that every now and then things change. We want to change some of the frameworks. We live in a challenging environment, so of course we want to make sure we innovate.

There are interesting conversations about zeros and ones. Do we have relatively few problems in this country because we do such a terrific job and our agencies and legislation are so effective, or is it perhaps because we don't have all that big a problem?

There's a question about resource allocation. Since October 2014 we have dedicated an inordinate amount of resources to counterterrorism, to the detriment of most other aspects of national security. It's been a field day for organized crime. You just need to read some of the threat assessments to understand that. Do we have the balance right? We will face a continued, persistent threat with regard to criminal extremism and violent criminal extremism. We need to make sure that the legislation evolves.

The strategic importance of signals intelligence is also poorly understood. I think there are innovations within the signals intelligence community that need to happen and that are not currently happening. There are the unfunded mandates that the government has implicitly created since 9/11. It is provincial and local governments that are now getting stuck with much of the counterterrorism bill. What are we going to do to make sure we support them in that?

● (1650)

There's continued confusion around issues of radicalization. I always compare this to the opinion pyramid and the action pyramid. These are separate problems. The opinion pyramid is people moving to thoughts that we would prefer them not to have. The action pyramid is about people moving to actions, ultimately violent extremism, that we would rather not have them take.

The problem of the opinion and of mass radicalization of people having views you'd rather not have them hold and the problem of people moving to violence are two completely separate problems. Religion or radicalization per se is not driving much of the violence that we're seeing. A number of other factors are involved, and they combine differently in different types of cases. Religion is often used to justify the violence, rather than driving the violence. If religion drove the violence, of course, we'd see a lot more of that violence.

I would encourage the government to think less about countering radical extremism, whatever it wants to say, and I would encourage the government to think more about preventing violent extremism.

With regard to cyber, we face significant threats. Loss in the global economy to nefarious organizations was estimated last year at about \$1 trillion. They pose a threat. We now understand the sort of threat that cyber can pose to democratic institutions and the way organized crime and other elements consistently exploit the cyberenvironment for their benefit.

When we talk about the Canada-U.S. border, inherently much of the national security framework is about ensuring our prosperity, because we saw after 9/11 what happens when the Americans close the border. Ensuring that Canadians understand that we are their partner is key here. In that regard, of course, how we need to think about this is in terms of the Kingston Dispensation of 1938 and of the Ogdensburg Declaration of 1940, wherein we agreed we're going to work with our American partners to keep troubles away from North America and in other parts of the world and work collectively to try to provide regional and international security. This co-operation with the Americans, regardless of administrations in the U.S., remains an overriding priority.

I have five quick recommendations.

One is the GCHQ model on cyber. Of course, the U.K. is a unitary state, so it is somewhat easier to use, but we need one agency in charge of coordinating cybersecurity efforts in this country. The collective action problems are simply astounding.

The second is on the RCMP. We need a capable organization that has the capacity to do federal and national policing, and follow it. To that effect, the RCMP needs to be restructured to be a completely independent federal and national policing organization with its own recruitment, remuneration, and whatnot. We can't have an organization that supposedly is in charge of federal and national priorities that spends 85% of its resources, time, and energy doing contract policing. It is failing in the obligations it has to Canadians on its federal and national priorities.

My third recommendation is on the CBSA. There's a long-standing conversation in this town about what CBSA should be in charge of. Why do we have one organization in charge between ports of entry and another organization at ports of entry? Let's have one organization in charge of both. I would suggest that CBSA might be that organization, but of course there are people who like their budgets and who would rather not do that.

The fourth is that I think Canada needs a centre for open-source intelligence. We are missing many of the boats and many of the trains because we don't have effective access to open-source

intelligence in a way that is compatible with our constitutional and legal obligations to protect the privacy of Canadians.

The fifth recommendation is to fund more research, because there's a lot of misunderstanding and a lot of elements in this country that are poorly understood, and we ultimately want to have made-in-Canada solutions for these challenges that conform to the Canadian legislative framework and to the priorities and expectations that Canadians have.

I have a number of other things that I could talk about, but I'll leave it at that for now.

• (1655)

The Chair: That's perfect. Thank you very much.

[Translation]

We will begin with Mr. Picard, for seven minutes.

Mr. Michel Picard (Montarville, Lib.): Thank you, Mr. Chair.

Thank you all for your constructive comments, recommendations, and suggestions. Your remarks are most relevant.

I will get straight to the issue of prevention, beginning with Professor Leuprecht. I also invite the Amnesty International Canada spokesperson to comment because there is a question related to the charter that will certainly be of interest to him.

We were talking about disruption measures by CSIS, and police powers that are associated with disruption measures. I'm not sure I understand the exact link between a disruption measure and a police measure per se, even though CSIS confirms that it has used such measures roughly twenty times.

You talked about these measures nearly two years ago, Mr. Leuprecht. Can you tell us about your assessment of them and about the CSIS's ability to disrupt developing operations?

• (1700)

Dr. Christian Leuprecht: I think the objective is to use disruption activities, to intervene, and to do prevention rather than incarcerate people. You already noted that the RCMP is overloaded by their obligations and our expectations. As you know, it is also facing considerable challenges with regard to institutional culture. That being the case, what other institutions could help us prepare for those potential operations?

Yes, that concerns me to some extent. The responsibility for security intelligence was deliberately assigned to an institution other than the RCMP, which enables...

[English]

to give them enforcement measures.

[Translation]

It concerns me to some extent, but in the current context, I'm not sure that the RCMP has the ability and the necessary attention to take on these responsibilities. If we don't task CSIS with this role, who then?

Mr. Michel Picard: Excuse me for interrupting.

[English]

You talk about enforcement measures that apply to the RCMP rather than disruptive measures that apply to CSIS. What's the difference? What do you make of that?

Dr. Christian Leuprecht: The challenge that people have with the disruption matter and the threat mitigation mandate is that it gives a quasi-enforcement measure back to CSIS. Until now, we have deliberately relied exclusively on the RCMP to engage on the enforcement side.

That's the challenge, and those are the reservations that people have. I think these reservations are well founded, but as I explained, someone needs to engage in disruption. In the current environment, I'm just not sure that the RCMP is ideally or optimally prepared to do that in all these cases.

This is a fallback position for me. It is not an optimal outcome, but I see it as a necessary solution until we can actually get the RCMP not to be distracted by all sorts of other things.

[Translation]

Mr. Michel Picard: Before my next question, I would like to know if there is any comment from the Amnesty International Canada representatives.

As there is not, I will move on to a subject raised by Amnesty International Canada and by you, Mr. Leuprecht.

[English]

The Chair: Just hold for one minute. I was listening in French. Apparently we don't have English. Is it working now?

Mr. Michel Picard: I can switch if you want me to.

The Chair: No, no.

[Translation]

You may continue in French.

Mr. Michel Picard: As to the passenger protect program and the no fly list, the people who complain obviously want their name removed from the list. In addition to those whose names are meant to be on the list, there are also those who have the same name. Completely removing names from the list could therefore be problematic. As to people's ability to defend themselves, there is a transparency issue with the disclosure of information and a representativeness issue. Perhaps we could discuss this further.

The government should no doubt consider what its transparency limit is and how much information it can share, specifically as regards disclosure.

[English]

Mr. Alex Neve: Absolutely. Our concerns are about the fairness, openness, and transparency of the appeal process.

We welcome the fact that in Bill C-51 the whole system has finally been legislated and that there are now clearer standards and there is an established appeal process and people know what they can access.

However, at the time that Bill C-51 was being debated, we and many others highlighted that while it was good to see an appeal procedure in the legislation, we were concerned that it fell short. We

recognize that there are some balances and trade-offs, but it fell far short of what would truly give an individual a meaningful opportunity to defend themselves.

Yes, it's not a criminal trial, and perhaps the full-fledged set of due process guarantees that must be protected in a criminal trial aren't in play, but nonetheless I think everyone recognizes that what's at stake is very serious. It's just about being able to go on vacations. It's about families being able to visit each other. It's essential to livelihoods. Also, I think we heard this from earlier witnesses regarding how the refusal of flight can itself be very degrading and dehumanizing.

That's why it's so important that the appeal procedure be reformed to provide greater access to information that is being used against people and provide more of an opportunity to respond to those allegations.

• (1705)

[Translation]

Dr. Christian Leuprecht: I think the way people think about this is similar to a driver's licence.

In order to revoke someone's driver's licence, there is a process to be followed. I think we need to find analogies that are closer to what Canadians expect when they are deprived of certain privileges, such as driving a car.

[English]

The Chair: I interrupted you, so I'll give you a little extra time for another question.

[Translation]

Mr. Michel Picard: Okay.

Thank you, Mr. Chair.

I would like to go back to the passenger protect program, which was in place before the new act.

In the past, a presumed terrorist could board a plane and come to Canada. Under the new law, however, we have seen a few cases, for instance, of a child of three or four years of age who could not attend a baseball game in the United States. It is as though doing too much prevents us from functioning, while not doing enough leaves too many doors open to various possibilities.

You said the problem sometimes arises when people board a plane in Canada that flies over the U.S. Are changes to the passenger protect program being considered?

Dr. Christian Leuprecht: I think we need a program that meets Canadians' expectations. On the whole, I think this program does that because the problems are isolated cases. As some colleagues also mentioned, even one bad case or false case is too one too many. At the same time, however, there are not dozens of people who are barred from taking flights every day.

Any government program will cause problems for certain individuals, give rise to isolated cases, and not always work properly. In short, we need to focus on these individuals rather than reviewing the entire program. I think the program works well on the whole and seems to be fair and effective.

[English]

The Chair: Go ahead, Mr. Clement.

Hon. Tony Clement: Thank you very much.

Thank you, madame and gentlemen, for your presentation.

I want to start with you, Mr. Neve, if I could, because I felt as though there were two different things being said. I'm sure that wasn't your intention, so I just want to unpack it a little bit.

At one point you said that there really doesn't have to be a tension between national security and human rights issues and that the appropriate application of national security concerns would be in favour of human rights being protected, but further to some of the things you said, and having Professor Leuprecht here as well, we have in fact talked about balancing and that there's a natural tension that we strive to balance in our legislation.

I'm a bit confused. I would have thought that Amnesty International's position is human rights at all costs, and everything else be damned. Surely that's the essence of what you're trying to put into the public space. Then others would have a different point of view, and through Hegelian dialogue we come to some sort of synthesis and life moves on. I don't want to put anything into your mouth, so why don't you express it the way you want to express it?

Mr. Alex Neve: Can I use that slogan for our next campaign?

Hon. Tony Clement: I was going to put it in my pamphlet. I'm sure it will get me lots of votes.

Mr. Alex Neve: As my colleague Madame Vaigrante laid out, what we come back to is that the international human rights system itself already strikes the balance we're talking about, so you do not need to look outside of or beyond human rights in order to anticipate or decide what the balance is.

As she noted, there are a number of human rights that are defined in the provisions of international treaties. Freedom of expression is a perfect example of acknowledging that there's a balance that needs to be found. There are very careful limitations on that, but it's right there in the definition of the right.

There are a handful of other rights that international law recognizes in extreme circumstances, and international law is very strong here, saying that in the case of "threatening the life of the nation", it's even possible to suspend some rights for a limited period of time and only as is absolutely necessary.

Then, finally, international law recognizes there are some rights that are so profoundly important, so essential to the notions of human integrity that are at the heart of human rights and also at the heart of us being secure, that they can never be violated. The protection against torture is a perfect example there.

That's what we're putting in front of governments: that you do not need to look beyond the human rights framework to figure out how to resolve that tension and find the balance. Governments—and of course, it was governments, not Amnesty International, that crafted those treaties over many decades—have already done so.

• (1710)

Hon. Tony Clement: Fair enough. I understand your position a lot more clearly now. Thank you.

However, we do live in a world where the threat is metastasizing and changing extremely rapidly, such that sovereign countries are playing a game of whack-a-mole trying to figure out how to deal with these threats as they alter. The threats of 1938 and 1940 aren't the threats of 2017. As governments, as sovereign nations who are ultimately responsible for their own borders and security, how do you...? It's not just a stasis. There are new threats and therefore new responses to threats, so is it still appropriate to deal with something that was crafted in 1938?

Mr. Alex Neve: It's much more recent than 1938.

Hon. Tony Clement: Okay. I thought somebody said something about 1938.

Mr. Alex Neve: It begins in 1948, which is when the Universal Declaration of Human Rights was crafted. There have been numerous treaties in the decades since then. Even now, United Nations human rights gatherings of governments continue to re-examine—but in doing so, reaffirm—the fundamental human rights framework I've just described.

Yes, absolutely, governments should be innovating, exploring new strategies, being more preventive, reaching out to communities, and finding new ways to gather information. However, when they do so, we would argue—and governments themselves have argued—on the most obvious issue of all, torture, that torture never has a place in any of those activities. Whether they are the old frameworks or the new security approaches that are being explored today, torture should never be part of it, just to use one example.

Hon. Tony Clement: I appreciate your clarity on that point. I appreciate that very much.

Professor Leuprecht, I have a couple of questions.

You talked a lot about cybersecurity infrastructure. Thank you for raising that issue. Are we falling behind internationally here in Canada on that?

Ms. Dianne L. Watts: Yes.

Hon. Tony Clement: Dianne says yes, so I'll have to read that into the record.

Dr. Christian Leuprecht: Look, we're world class on some of the things we do. In some of the very specific capabilities we have, we can play with the best. I think we also have serious challenges in areas where we're not looking forward.

For instance, there's no foresight in this country on the way electronic communication is changing. People used to write letters to one another; then they wrote emails, and now we write text. Much of the communication in the future is going to be between machines—your phone and your fridge, your laundry machine, and whatnot—

Hon. Tony Clement: It's the Internet of everything.

Dr. Christian Leuprecht: Under these circumstances, what should we be watching? What can we be watching? Where might the threats emerge? As far as I can tell, nobody has actually seriously thought about where this is headed and how we need to prepare for it. Nobody has asked questions in this country about whether what is being delivered on cyber to the government in terms of intelligence and strategic intelligence is actually what the government needs. As far as I can tell, the priorities for the government are not well aligned with the sort of products the government actually receives from some of its agencies, for instance.

Also, I think that we in this country have a serious challenge in terms of our overall capability. Every week I get a call from someone who asks me, “Christian, we just got authorized to hire 20 new people to help us on our cybersecurity front. Can you give me some names of some folks we could hire?” These people do not exist. The government has not thought systematically about how we generate the research capacity, how we generate the HQP, the highly qualified personnel, to make sure we can actually provide for Canada what Canada needs to be competitive and safe.

You've probably heard this expression, often referred to as “phase two”. “Phase two” means it's not just about cybersecurity; it's Industry Canada now also thinking about.... It's that if we can't keep the investments that people make in Canada and in intellectual property safe and protected, then people are not going to put their money into Canada. They're going to put it into Australia or into Israel or into the Netherlands, countries that have a strategy to protect their intellectual property. We're going to be seriously left behind in terms of our prosperity.

I think that in the current environment, we need to make sure we're competitive. We have one province that actually has a somewhat coordinated strategy, and that's New Brunswick. As far as I can tell, in the other provinces, it's—

•(1715)

Hon. Tony Clement: Way to go, René.

Dr. Christian Leuprecht: It's a complete free-for-all.

I think, regardless of what party is in power, we have an interest in making sure we actually have a coordinated strategy here. I would encourage—

The Chair: I'm afraid I need to bring this Hegelian dialectic to an end.

Voices: Oh, oh!

The Chair: Mr. Dubé is next.

[*Translation*]

Mr. Matthew Dubé: Thank you, Mr. Chair.

My first question is for the representatives of Amnesty International Canada and pertains to torture.

You talked about a change in mindset, so to speak, as to sharing information with the United States since Mr. Trump has opened the door to torture.

As I understand it, you co-signed a letter calling on the minister to review the ministerial directive. The minister said the directive

covers the use of information as well as the prohibition on using it initially in any way until it has been read to the end. That is the key.

Are you in favour of repealing that directive and replacing with one that explicitly prohibits the use of any information obtained through torture?

Mr. Alex Neve: Would you like to answer the question, Ms. Vaugrante?

Ms. Béatrice Vaugrante: Okay. My answer will be short and clear.

Of course, torture may not be used under any circumstances and we should never obtain information or conduct security-related activities based on information obtained through torture. Canada must not subscribe to that, not only because of our way of doing things here, but also to show the rest of world once again that torture must not be considered under any circumstances. Unfortunately, when democratic countries start to undermine this principle, it also opens the door to many other countries that are less particular in this regard.

[*English*]

Mr. Alex Neve: If I could add one point, I think it's worth highlighting that in 2012, the United Nations Committee Against Torture, which was reviewing Canada's record of compliance with the UN convention against torture at the time, pointed to concerns about the ministerial directions and highlighted that in their existing form, they do not meet our international obligations—which Béatrice has so well summarized—and called on Canada to make reforms.

[*Translation*]

Mr. Matthew Dubé: That is an excellent reply. Thank you very much.

We were discussing the sharing of information with the United States.

The idea is to go forward and share more information. We saw that last week or the week before. A number of decrees have been signed recently. Certain legal protections have been removed that citizens of other countries had as regards their information in the United States.

Can you elaborate on the sharing of information with the United States in general, given that their administration is rather unpredictable? This applies not only to the United States itself, but also to Russia, for example. We know that questions have been raised in this regard. Are we sharing information with a close ally that could end up somewhere else? These are all questions to consider.

What are your thoughts?

[*English*]

Mr. Alex Neve: I think it's very timely to be pointing to concerns about what the rapidly changing, and we would say deteriorating, human rights situation in the United States means potentially for our intelligence relationships.

One is the concerns around torture, obviously. I think it's going to be incumbent upon the Canadian government, and all of our agencies, to pay very careful attention to what is or is not the emerging U.S. policy with respect to the use of certain forms of torture by intelligence agencies, such as waterboarding, and what safeguards we're going to need to absolutely ensure we are not in any way complicit with that in our relationship with the United States..

More widely, there's a lot of uncertainty right now, but I think there are a lot of reasons to be concerned. What we're highlighting is that the government needs to keep a very watchful eye on what is happening in the United States. Our own approach to information sharing was, of course, broadened expansively in ways that we've never seen before through Bill C-51, in terms of the breadth and nature of information that gets shared right across government. I think that highlights once again why it's so important that we ensure we have proper safeguards in place to ensure relevancy and accuracy and that inflammatory information isn't being shared, because with all of those risks we want to make sure that none of that information would then subsequently find its way into the hands of U.S. agencies.

• (1720)

[Translation]

Mr. Matthew Dubé: Do you have any comments about customs operations? People have been asked for social network passwords even though there is absolutely no legal requirement to provide them, either in Canada or in the United States.

Moreover, this is not practical yet, but there has been talk of using biometrics and scans. This has been raised. What are your thoughts? I know it is relatively new, but I would also like to hear your thoughts on that.

[English]

Mr. Alex Neve: Béatrice, do you want to answer?

[Translation]

Ms. Béatrice Vaigrante: No, I will let you answer, Mr. Neve.

[English]

Mr. Alex Neve: I would agree that those are all areas of concern that we're watching very closely.

I wouldn't say that Amnesty necessarily has clear positions of opposition with respect to the issues that you're highlighting, but we certainly have signalled the very real potential that there are serious human rights violations that can ensue if, for instance, those new technologies aren't used responsibly. That's number one. Number two, they do not have effective safeguards in place, so it often comes down to questions of safeguards and review and oversight, and we know, for the large part, that Canada's national security framework is lacking on that front.

[Translation]

Mr. Matthew Dubé: My final question is for all the witnesses.

There has been a lot of discussion of the no fly list. How much difficulty are people experiencing as a result of this list?

As you said, Mr. Leuprecht, the U.S. list is used very often. How great is the impact of that? Regardless of what we do in Canada, the U.S. list remains problematic.

Is there some way of rectifying that?

Dr. Christian Leuprecht: Yes, I think the federal government can tell the people on the no fly list that their problems are not the result of Canada's list. The government cannot necessarily tell people which list is being used, but they could be told that the ban is not due to the passenger protect program. I think that could relieve some tension in this regard.

Mr. Matthew Dubé: Perhaps the debate should be better structured in order to determine where improvements are needed.

Dr. Christian Leuprecht: I think the government has a duty to explain that, although several lists are being used, just one list is important.

The Chair: Thank you.

We will now move on to Mr. Arseneault, a new member of the committee.

Mr. René Arseneault (Madawaska—Restigouche, Lib.): Thank you, Mr. Chair.

I would also like to thank Mr. Neve, Mr. Leuprecht, and Ms. Vaigrante for being here today.

As the chair pointed out, I am a newcomer to the committee. This is just my third meeting. You will have noticed that I am surrounded by eminently wise colleagues. I feel like I am six months behind on this file.

My questions may initially be technical in nature.

Ms. Vaigrante, you said earlier that all public safety laws that can affect human rights should be subject to the Canadian Charter of Rights and Freedoms. I think that was your second recommendation.

Is that correct?

Ms. Béatrice Vaigrante: Our point is that at this time the Canadian national security statutes mention neither the Canadian Charter of Rights and Freedoms nor the Canadian Human Rights Act. There is no reference to them, and even fewer obligations, with an exception for the Immigration and Refugee Protection Act.

We are asking that any law on national security, whether it is new or not, include a provision requiring that it be interpreted be in light of the Canadian Charter of Rights and Freedoms, the Canadian Human Rights Act, and international law.

• (1725)

Mr. René Arseneault: Correct me if I'm wrong, and please reassure me, but I believe that in Canada, the Canadian Charter of Rights and Freedoms supercedes all other Canadian legislation.

Ms. Béatrice Vaigrante: That should be the case, and if it were mentioned we would feel decidedly better. Unfortunately, certain provisions, among others in Bill C-51, do not comply with the Canadian Charter of Rights and Freedoms. Several provisions in some acts or bills disturb us considerably.

If this legislation expressly referred to the Canadian Charter of Rights and Freedoms, the Canadian Human Rights Act, and international law, it could be interpreted in light of human rights. That is necessary, given the balance that must be established between security and the respect of human rights. As Mr. Neve and myself were saying earlier, this is already expressed in provisions relating to human rights.

Mr. René Arseneault: As you were saying, this law is quite recent, and we have to give the courts some time to interpret its provisions to determine what might run counter to the Canadian Charter of Rights and Freedom. That is how our justice system works.

Do you share my opinion on this?

Ms. Béatrice Vaugrante: Of course, I agree with you, but once again, we would be reassured if there were some guidelines and guarantees in this regard. We understand very well that national security policies and their implementation always have to develop, be tested, and perhaps sometimes be found wanting.

We are asking, as a second guarantee, that there be a Canadian oversight model. Indeed, there is no integrated and complete oversight body that could shed light on the need to correct certain things. In my opinion, that is what is really missing in Canada. This would allow us to move forward while taking into account both the legislation and security considerations. If Canada had this type of complete and integrated review framework, and if independent bodies could assess national security practices, I think we would all benefit.

Mr. René Arseneault: I'd like to go back to a question that was put by my colleague Mr. Clement. I'd like to believe that Canada is a leader, or at least in the lead group when it comes to respecting individual rights and freedoms.

Could you give us some examples of other countries that have created an independent review framework or an independent body to supervise all of that?

Ms. Béatrice Vaugrante: I will let my colleague Alex Neve complete my comments, because he will probably be able to provide more references in this regard. For my part, I know that other countries such as Great Britain have created such parliamentary committees. We all understand that Bill C-22 refers to a parliamentary committee on national security, but that kind of mechanism often reaches its limits.

National security agencies sometimes have trouble working together, and we have unfortunately seen that in the past. Organizations all have their own particular culture. That is why other countries, and even Canada, have trouble putting in place an organization that will be able to oversee all of it. There has to be a way to get beyond those cultural differences and that past in order to be able to do so.

Perhaps my colleague could provide a better answer to your question.

Mr. René Arseneault: Mr. Neve, does any country in the world have an organization whose mandate is to facilitate that supervision?
[English]

Mr. Alex Neve: There is nowhere we would give the gold star—

Mr. René Arseneault: Do we have a bronze at least?

Mr. Alex Neve: —and Amnesty rarely gives the gold star. However, there are other countries that we think are much further down that road, and Béatrice has highlighted the importance of a review mechanism that's independent, comprehensive, and expert.

[Translation]

Mr. René Arseneault: In a few words, what potential solutions can you or Mr. Leuprecht suggest that would allow us to put in place the kind of security an independent monitoring organization could provide?

[English]

Mr. Alex Neve: We would suggest that the framework exists in the proposal that was made by Justice Dennis O'Connor 10 years ago as part of the Maher Arar inquiry. He was asked to do that. He did it thoroughly. He put in front of the nation a very comprehensive recommendation as to what the model could look like, and in doing so looked at what existed in other countries and drew from the very best.

Now, that was 10 years ago. It doesn't need to be adopted exactly as what was proposed 10 years ago, but certainly the framework is there.

[Translation]

Mr. René Arseneault: You are referring to a proposal which was made by Judge O'Connor.

I'd like to go back to the question I put to your colleague. Are there any examples anywhere on the planet of countries that have that kind of service or that kind of organization?

Mr. Leuprecht, do you want to answer my question?

• (1730)

Dr. Christian Leuprecht: Yes, thank you.

I invite you to take a look at my study on Bill C-22, in which I compare several countries. This study will be published in a few weeks and will provide a precise answer to that question, and explain why the bill in its current form has not reached its objective.

Mr. René Arseneault: Could we get a scoop on its content? Is there a country somewhere that merits a gold medal?

Dr. Christian Leuprecht: I will eventually share all of that with you.

Mr. René Arseneault: Very well. Thank you very much.

[English]

The Chair: That's it, so thank you.

Before I thank the witnesses, I want to remind folks that we'll meet on Wednesday. In the first hour we have two witnesses on one panel, the National Council of Canadian Muslims and the Canadian Bar Association. The second hour is an in camera meeting to give instructions to the analysts so that they can start to draft our national security framework report. We'll see how far we can get. We'll also receive the minutes from the subcommittee meeting that Mr. Miller brought up.

I hope everyone has a good Valentine's Day.

Thank you to both our witnesses. Your testimony was very helpful today. The meeting is adjourned.

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