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# **Subcommittee on International Human Rights of the Standing Committee on Foreign Affairs and International Development**

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**Chair**

**The Honourable Jason Kenney**

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Tuesday, June 5, 2007

•(1115)

[English]

**The Vice-Chair (Mr. Mario Silva)(Davenport, Lib.):** Good morning, everybody. I'd like to welcome everybody to the Subcommittee on International Human Rights of the Standing Committee on Foreign Affairs and International Development.

We have before us two witnesses: Kim Pate, who is executive director of the Canadian Association of Elizabeth Fry Societies; and Dominique Larochelle, who is also from the same society.

Kim would like to start.

**Ms. Kim Pate (Executive Director, Canadian Association of Elizabeth Fry Societies):** First of all, I want to thank you very much for inviting us to appear today.

Maître Lucie Joncas sends her regrets. She was due to come, but due to scheduling difficulties couldn't make it. I'm very pleased, however, that Maître Dominique Larochelle is here to join us.

Maître Larochelle, in addition to being the president of the board of directors of the Société Elizabeth Fry du Québec, is also a legal aid lawyer in Montreal and knows this area well.

We are also most fortunate always to have the calibre of advisers that we do in terms of such members of the community as Maître Joncas and Maître Larochelle. For those of you who are not aware, they donate thousands of hours of work to the issues with which we are involved, all pro bono.

Accordingly, I want to take this opportunity to publicly thank you, Ms. Larochelle, and all the other members of our board of directors, for your ongoing guidance and dedication throughout the work we do.

For those of you who are not aware, the Canadian Association of Elizabeth Fry Societies was originally conceived in 1969 and was incorporated as a national voluntary non-profit organization in 1978. We're a federation of 26 local community-based agencies that provide services to marginalized, criminalized, victimized, and institutionalized women and girls. We have both paid and volunteer staff, and they are involved in the governance, as well, of our organizations across the country. They're also involved in programs and service delivery throughout our association—our 26 members—and the programs that are developed are developed at the grassroots level and involve everything from early intervention and prevention activities to and including pre- and post-release work and

interventions in institutions, whether they be forensic, mental health, immigration detention, or prison and remand facilities.

In the past year our more than 30 volunteers, including board members, have dedicated more than 6,000 hours of work to national initiatives, which supplements the work of the two of us who are staff in the national office. In our 26-member societies, it's probably of interest to this committee to know that we have more than 1,500 volunteers who dedicate approximately 110,000 hours per year, which supplements our full- and part-time staff across the country.

At the national level—the office I work out of—we focus on policy and law reform initiatives, and our work is very much informed by the initiatives of our organizations. In terms of the optional protocol to the Convention against Torture, our organization has been involved for some time, in partnership with Amnesty International and with the Association for the Prevention of Torture, by encouraging the Canadian government to implement and ratify the optional protocol related to the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

As you will note from our response to the fourth and fifth reports submitted by Canada, there is certainly significant concern for the lack of compliance, at times, with our own important, significant, and very much valued charter and human rights protections, and so we are extremely concerned also about our compliance with United Nations conventions.

One of the things we point to, in reference particularly to the issues pertaining to women, is the United Nations themselves, in the UN Sub-Commission on the Promotion and Protection of Human Rights. Ms. Florizelle O'Connor was hired to do some research, and she concluded that the situation of women prisoners worldwide revealed gross violations of almost all accepted human rights principles.

The treatment of women in Canadian prisons is no exception, and on federal policies and practice related to the treatment of federally sentenced women, we have long raised many concerns regarding the manner in which these violate provisions of the Convention against Torture in a number of ways, which are discussed in our brief.

I understand it should be available soon. I apologize that because of the short notice we were not able to have it available in French for today, but it will be distributed *en français aussi*.

The UN General Assembly has called on states to address key problems facing women in prison in several contexts. Prominent Canadian agencies have also issued reports regarding the situation of women prisoners and have made numerous concrete recommendations about how the federal government can and should improve the treatment of prisoners.

One of the examples is Louise Arbour's report. Louise Arbour is currently the High Commissioner for Human Rights at the United Nations. In her commission of inquiry into certain events at the Prison for Women in Kingston, she provided a number of examples of the sorts of protections, of the sorts of violations that this kind of convention might assist us in detecting, and therefore protecting the Canadian government as well, in terms of potential liabilities.

As well, the Canadian Human Rights Commission, in a report entitled *Protecting Their Rights: A Systemic Review of Human Rights in Correctional Services for Federally Sentenced Women*, a report publicly released in January 2004, also pointed out the number of—

**The Vice-Chair (Mr. Mario Silva):** Ms. Pate, I'm sorry to interrupt you.

We want you and the members of the committee to be aware that we also have online, from Geneva, Mr. Philippe Tremblay, Asia-Pacific program officer with the Association for the Prevention of Torture. He will be speaking later.

It's just important that you and the members of the committee are aware that Mr. Tremblay is online.

• (1120)

**Ms. Kim Pate:** Thank you very much, Mr. Chair.

Suffice it to say that as issues continue, we continue to raise concerns. As recently as their most recent report, the Correctional Investigator in this country also raised concerns about the issues of human rights violations and discriminatory treatment of prisoners. All such groups, including Mr. Tremblay's group, have raised concerns regarding the need to ratify the optional protocol by Canada.

We see it as one example of the manner in which the government has demonstrated reluctance to enable the sorts of oversight mechanisms that are necessary to address the discriminatory and harmful policies and practices of the nature that we have outlined in our brief to the United Nations in 2005.

On December 10, 2005, in fact, Amnesty International, the Association for the Prevention of Torture, and our organization encouraged this government to adopt the optional protocol. In addition, at that time it was International Human Rights Day, as you are undoubtedly aware. It was also the 57th anniversary of the adoption by the United Nations of the Universal Declaration of Human Rights.

**The Vice-Chair (Mr. Mario Silva):** Ms. Pate, I apologize for interrupting you again, but the clerk wants us to make sure that Mr.

Tremblay can hear what you're saying and the committee procedures.

Mr. Tremblay, can you hear the meeting?

**Mr. Philippe Tremblay (Officer, Asia-Pacific Program, Association for the Prevention of Torture):** I can hear you. Can you hear me well?

**The Vice-Chair (Mr. Mario Silva):** Yes, everything is fine. Thank you very much.

Okay, please continue, Ms. Pate. I apologize.

**Ms. Kim Pate:** At that time we recognized, as did the United Nations, the importance of ensuring that the protections that are available by virtue of the Universal Declaration of Human Rights be extended and be protected by the ratification of the optional protocol to the United Nations Convention Against Torture.

In fact, in the last two annual reports, the Correctional Investigator has also encouraged Canada to ratify the optional protocol and has pointed out that Canada was part of a group that drafted and voted in favour of its adoption by the United Nations General Assembly in December 2002. The Correctional Investigator also points out that one of the benefits of the protocol is that it establishes a system of regular visits undertaken by independent international and national bodies to places where people are deprived of their liberty, in order to prevent torture and other cruel, inhumane, inhuman, or degrading treatment.

He also pointed out that ratification would add to Canada's long historical tradition of promoting and defending human rights at home and abroad. It would also provide an opportunity to review the role and mandate of oversight agencies involved in the monitoring and inspection of places of detention and to strengthen oversight mechanisms where required.

Our view is that there's very clearly a need for the optional protocol in Canada. As well, Canada would do well to show international leadership by ratifying this convention at this time. I think we see many examples of that in the struggle to eradicate torture and ill treatment, which remains one of the most serious human rights challenges the world faces, and indeed that Canada has faced.

In our global struggle and in the global struggles that have significance for Canadians, we know that the recent cases of Zarha Kazemi in Iran, William Sampson in Saudi Arabia, Professor Kunlun Zhang in China, Maher Arar, Abdullah Almalki and Ahmad El-Maati in Syria are stark reminders that Canadian citizens may be subjected to torture abroad as well.

There have also been domestic concerns, as I've already mentioned, such as the disturbing abuses that took place in the 1990s at the Prison for Women in Kingston, and at the Robert-Giffard psychiatric hospital in Quebec City in 2003, and the current use of extended segregation for women subjected to what Correctional Services Canada refers to as a "management protocol" in the new prisons for women, which underscores that discriminatory and torturous treatment can occur and is in fact occurring as we speak in Canada.

The optional protocol lays out a framework for regular national- and international-level inspections of detention centres with an eye to identifying and remedying the conditions that encourage and allow torture and ill treatment to take place. International support for the optional protocol continues to grow. On April 29, 2007, as this committee is undoubtedly aware, Cambodia became the 34th state party to adopt and ratify the Convention against Torture.

OPCAT entered into force on June 22, 2006, and that was after 20 countries became party to the protocol. The first meeting of the subcommittee on prevention of torture met in Geneva this past February.

It is, I think, and our organization would submit, an international embarrassment that Canada, which led the way on the introduction of this protocol, was not among the first group of nation states responsible for setting up this innovative body and defining its working methods.

But it's not too late. The first committee has only just met. I think it's very important that Canada take its rightful position and ratify the protocol. We think it would be most important that the subcommittee, which is the first globally established international expert body with jurisdiction to carry out inspections of detention centres, be ratified by Canada.

We think it's also potentially a way for Canada to show that it is in fact taking seriously its own internal reports, such as the reports of Louise Arbour, the reports of the Canadian Human Rights Association, the report of the Maher Arar inquiry, and the current investigations that continue, not to mention the myriad investigations that are now taking place in terms of RCMP situations and the possibility of having international oversight of RCMP lock-ups and other police lock-ups.

• (1125)

So it's our view that, building on our established international role as a leader in the area of human rights protection, Canada should still make every effort right now to participate in the early work of the subcommittee, and to that end we consider it to be a matter of the utmost priority that Canada move forward immediately and ratify the optional protocol without any further delay.

Thank you. Those are our submissions. We'll be happy to answer questions once Mr. Tremblay has completed his presentation.

**Mr. Mario Silva:** Thank you very much.

Mr. Tremblay.

**Mr. Philippe Tremblay:** With the permission of the committee, I would prefer to make my intervention in French, for the sake of clarity.

[*Translation*]

The Association for the Prevention of Torture would like to first thank the Sub-Committee for giving it this opportunity to present its views as part of these consultations.

To begin with, I would like to briefly introduce our organization and tell you about our work in support of the Protocol, before moving on to talk about the current situation as regards implementation of the Optional Protocol at the international level

and the reasons why we consider ratification by Canada of this Protocol to be extremely important, not only for the people of Canada, but for the success of this system beyond this country's borders.

The Association for the Prevention of Torture, or APT, as we call it, is a non-governmental organization based in Geneva, Switzerland, which has been working for the last 30 years to prevent torture. The Association has been closely involved in the lengthy process of negotiating and adopting the Protocol. The original idea behind the Protocol—in other words, the idea that torture and other types of mistreatment can be prevented through implementation of a system of regular, preventive visits—was first developed in 1973 by the founder of our Association.

Since December of 2002, when the Protocol was adopted, the APT has been engaged in an international campaign, in cooperation with a number of other international and regional non-governmental organizations, in support of this Protocol. As part of that campaign, we have taken actions aimed at raising awareness in different forums in which the Canadian government is an active participant, forums where resolutions or declarations have been adopted that urge all members to ratify this instrument. I am thinking, in particular, of the United Nations Human Rights Council and the Inter-American Commission on Human Rights.

Although I am now responsible for the APT's regional program in the Asia-Pacific area, prior to that, between September 2004 and January 2007, I was responsible for coordinating the international campaign in support of the Protocol. As a result, I had a fairly close involvement in these kinds of discussions in a number of different countries.

I would just like to remind Committee members, as Ms. Pate was saying, that, as of today's date, 34 states are now parties to the Protocol and 31 others have at least signed it. Canada has done neither. It has still not signed the Protocol and has obviously not ratified it either. Those figures may seem modest, but it's important to remember that the Protocol has only been available for ratification since September, 2003. So, that is a fairly quick turnaround time compared to other similar treaties.

Following the implementation of the Protocol in June of 2006, the United Nations Sub-Committee on Prevention of Torture was elected last December by the first 20 States Parties to the Protocol. That Sub-Committee is composed of 10 independent experts. The Sub-Committee intends to carry out its first visits before the end of this year. While its powers are limited for the time being, they will be more substantial once 50 states have ratified the Protocol. When that happens, the number of experts on the Sub-Committee will rise to 25. As a result, the Committee will be able to carry out more visits.

While Sub-Committee members have not yet finalized their rules of procedure, we can expect the Committee to operate in a roughly similar manner as the European Committee for the Prevention of Torture, a regional organization that has been making similar, periodic visits to the 47 member states of the Council of Europe since 1989.

Most states that have ratified the Protocol thus far, and even some others who have signed it and are in the process of ratifying it, have already begun taking steps to implement the Protocol domestically. As you know, the Protocol provides for States Parties to pledge to designate or develop one or more prevention mechanisms. Even when the Sub-Committee has 25 experts, it will only be in a position to make a few visits per year, which suggests that it will visit States Parties only once every four or five years, in the best possible scenario, making the work carried out nationally that much more important.

States have one year from the ratification date to complete the process of providing notification of their national prevention mechanism under the Protocol. For the first 20 States Parties, that period will run out on June 22.

The Protocol gives States full latitude to develop on their own the form of national mechanism they wish to adopt for their own country. However, whatever the configuration of that mechanism, it clearly must comply with a number of guarantees laid out in Part IV of the Protocol.

It is useful for States to look at what is being done elsewhere for inspiration, particularly those countries with similar characteristics, especially in terms of their criminal justice system. In Canada's case, it would be helpful to know what other countries, such as Commonwealth countries, are developing in the way of mechanisms, although there is clearly no model that could be adopted as is, since every country is different.

Although we do not really have the time to discuss proposed models today, the APT is perfectly prepared to make that information available to members of the Sub-Committee, if they so desire.

With respect to Canada, I would simply like to lay out some of the arguments in favour of ratification, hoping not to repeat what Ms. Pate has already said, having only heard part of her comments.

First of all, there is one very obvious fact: Canada has always expressed unwavering support for international instruments and mechanisms aimed at combating torture, particularly the Optional Protocol. Canada has sent clear signs that this commitment should lead to adherence to the Protocol.

As we all know, the fight against torture has, for many years now, been a priority within the Canadian government's foreign policy as it relates to human rights. Canada has frequently sponsored draft resolutions on torture, that have been submitted to the Human Rights Commission. Canada is one of the main contributors to the United Nations Fund for Victims of Torture. Canada was one of the first countries to ratify the Convention against Torture. Canada was even part of a working group that developed the draft Optional Protocol over the period from 1992 to 2001. Finally, Canada voted in favour of the Protocol at the Human Rights Commission in April of 2002 and, subsequently, at the General Assembly, in December of 2002.

We also know that, when it ran for a seat on the new UN Human Rights Council in May of 2006, Canada pledged to consider signing or ratifying other human rights instruments subsequently, such as the Optional Protocol to the Convention against Torture. Canada was ultimately elected to the Council and will remain a member until

2009. Consequently, we believe it has a duty to fulfill those promises.

Furthermore, we believe ratification provides an opportunity for Canada to regain its prestige at the international level. Because we are based in Geneva, we know that Canada has always enjoyed an enviable reputation when it comes to defending and promoting human rights across the globe. However, we also know that recently, a number of regrettable incidents, including the Maher Arar affair and allegations of mistreatment of detainees captured by the Canadian Forces personnel in Southern Afghanistan and handed over to Afghan authorities, have damaged its reputation, leaving the impression, among international observers, that Canada may no longer take these highly sensitive matters as seriously as they warrant.

As well, Canada is an influential player in many different multilateral organizations. An obvious example would be the United Nations, but they also include the Commonwealth, the Organisation internationale de la Francophonie, the Organization of American States, APEC and the Asia-Pacific Economic Community. If it ratifies the Protocol, Canada could use the moral authority thus gained to promote this instrument with the authorities of many member states, particularly those grappling with acute problems of abusive treatment. For now, however, because Canada has not even signed, let alone ratified, the Protocol, it is not able to carry out that work.

Another important argument, in our view, is that the ratification and implementation of the Protocol will help Canada meet its international obligations. By ratifying the Convention against Torture, Canada pledged to take all necessary measures to prevent acts of torture or other cruel, inhuman or degrading treatment or punishment from being carried out in its territory. That obligation is set out in Article 2 of the Convention.

While the establishment of a system of preventive visits can certainly not guarantee that mistreatment will never occur again, it is clear that such a measure clearly reduces the risk of it occurring. Preventive visits—and we know this because many international experts, including the United Nations Special Rapporteurs on Torture, have made this point again and again—do act as a deterrent.

Thus the visit mechanisms, if they are preventive in nature, will have an effect upstream and allow for a visit to be carried out before complaints are made. This will give authorities responsible for managing these institutions an opportunity to find out what corrective measures are needed.

Also, as Ms. Pate was saying, the Sub-Committee against Torture explicitly recommended, in November of 2005, that Canada adhere to the Option Protocol. We believe that Canada has a responsibility to follow up on that recommendation.

I now come to my fourth point. There is a risk of torture or other forms of mistreatment occurring both in Canada and elsewhere in the world. The implementation of this protocol will help to reduce that risk. We all know—and Ms. Pate said this as well—that Canada is clearly not at the top of the list of countries that engage in this kind of abusive treatment, but a number of events bring home the need to remain vigilant. We could mention the allegations of mistreatment at the Prison for Women in Kingston and the Commission of Inquiry headed by Ms. Arbour. Ms Pate referred to mistreatment at the Centre hospitalier Robert-Giffard in Quebec. There is also the case of mistreatment of prisoners detained by the Canadian contingent in Somalia in 1993. So, Canada is not immune to that risk.

Indeed, one has only to look at what is happening in Europe. European countries are also not known as countries that practice systematic torture. Yet the vast majority of these countries have already developed and implemented national mechanisms. The European Committee for the Prevention of Torture, which I referred to earlier, carries out periodic visits. Nevertheless, the majority of these countries have recognized the relevance of signing or ratifying the Protocol in order to send a strong political signal that torture is unacceptable in any circumstance, that the risk exists and that it is always preferable for there to be more systems of regular visits.

Of those countries that have signed and ratified the Protocol are no less than 20 countries which are members of the European Union, including the most influential ones. Great Britain, Poland and Spain have ratified it; France, Italy and Germany have also signed the Protocol and are now preparing to ratify it.

Furthermore, in practice, implementation of the Protocol in Canada should not really be much of a problem. Of course, there are some issues that need to be looked at carefully, but the concept of visits to detention centres by independent experts is not foreign to Canada. As we know, there are a number of mechanisms in place that allow that work to be carried out. One example would be the Office of the Correctional Investigator, which carries out visits to correctional institutions that are under federal jurisdiction, and human rights commissions in most of the provinces and territories, which also carry out that kind of monitoring.

As well, there are specialized agencies, such as the Mental Health Patient Advocate for the Province of Alberta and the Office of the Police Complaints Commissioner of British Columbia. As well, there is the Canadian Red Cross, which visits persons who are detained under the Immigration and Refugee Protection Act, and a number of non-governmental organizations, including the one represented by Ms. Pate. So, this is an accepted, recognized concept. Canada has absolutely nothing to fear, if I may say so. That is perfectly clear.

I would simply like to conclude my opening statement with a few words about the challenges of implementation here in Canada, which we can discuss at greater length subsequently.

There is obviously the fact that Canada is a federation. Our association recognizes that federal, decentralized states face special challenges when the time comes to implement the Protocol. It's simply a matter of tackling them head on. Furthermore, there is no doubt in our mind that these challenges are not insurmountable. Once again, one has only to look at the list of States Parties. Great

Britain, Spain, Mexico and Argentina have ratified the Protocol, as has Brazil, which is also a federation. It's also worth mentioning that Germany, Austria, Switzerland and South Africa, which are also federations, have signed the Protocol. So, where there is a political will, there is a way.

Of course, there is the matter of the financial resources that will need to be allocated in order to implement the Protocol. The APT has noted, both in Canada and elsewhere, that government officials want to have an idea of the costs associated with implementing the Protocol, which is perfectly legitimate. In Canada's case, as I was saying earlier, it is important to point out that there is no need to create a new mechanism. It could easily designate one or more of the existing organizations as the national prevention mechanism, insofar as those organizations adhere to the guarantees laid out in the Protocol.

Furthermore, it is probable that the number of visits to be carried out will have to increase, if the visits currently being conducted in Canada by what are now independent organizations are reactive, as opposed to preventive, in nature. It will also be necessary to ensure that whatever mechanisms are established, unexpected or surprise visits will be possible, if the situation warrants.

• (1140)

**The Vice-Chair (Mr. Mario Silva):** Mr. Tremblay, I am very sorry, but you have already exceeded your speaking time. Could you conclude now or summarize your final points? Thank you.

**Mr. Philippe Tremblay:** We will certainly have time to come back to them during the question period.

**The Vice-Chair (Mr. Mario Silva):** Yes, of course. Committee members will certainly have questions. You can use that time to make your other points.

**Mr. Philippe Tremblay:** I would just like to have 30 seconds to wrap up.

If Canada were leaning towards designating a multiple mechanism, it is probable that the mandate of some of those component parts would have to be amended. It is also important to remember that some parts of the federation do not now have a mechanism for independent visits. I am thinking here of Prince Edward Island, for example. Those gaps will obviously have to be filled.

Another item that will be very important in this context is coordinating the work to be carried out by the different component parts of the mechanism. As far as I know, Canada has never publicly questioned its support for the Optional Protocol. However, one gets the feeling that discussions on this particular issue among the various departments have not really progressed much in recent months. Given the importance of this matter and Canada's influence, we believe that must absolutely be corrected.

In closing, the APT recommends that the Sub-Committee urge the Government of Canada to sign the Optional Protocol as soon as possible and thereby signal that it intends to bring the ratification process to fruition. We also recommend that the Sub-Committee asks officials responsible for discussions on ratification to indicate to it what real progress, if any, has been made, so that we have a clear sense of the current status and of the kind of actions that will be needed to complete the process.

•(1145)

**The Vice-Chair (Mr. Mario Silva):** Thank you.

We will begin the first round with Ms. St-Hilaire.

**Ms. Caroline St-Hilaire (Longueuil—Pierre-Boucher, BQ):** Thank you, Mr. Chairman.

Ladies, thank you for your testimony.

Greetings, Mr. Tremblay. In fact, my question is addressed mainly to you, Mr. Tremblay, although I also invite our other witnesses to answer, if they wish to comment.

Your testimony was very eloquent, Mr. Tremblay, in terms of the reasons for signing and ratifying the Protocol. However, I think many of us are wondering exactly why that has not occurred thus far. I would be interested in hearing your comments on that.

As far as you know, who is involved in the process, and why exactly has Canada not moved forward on this? How do you see the Sub-Committee's role as regards its ability to pressure the government to ratify the Protocol?

**Mr. Philippe Tremblay:** In recent years, the APT has been in contact with officials from the Government of Canada. Interdepartmental discussions are underway. It is true, however, that there is no regular contact. We are also wondering why the Protocol has not at least been signed. Perhaps it has something to do with the change of government in early 2006, and the fact that it is a minority government may also be complicating the discussions. As an international organization, we are not based in Canada. Consequently, we do not have detailed information about those discussions.

In fact, we note with regret that we are not asked for our feedback as often as we could be. A number of governments ask us for technical advice or to help them resolve certain issues. On many occasions, we have offered our assistance and said we are available to facilitate the process. The final decision as to whether Canada will ratify the Protocol and what form the national prevention mechanism will take here in Canada is obviously one to be made by Canadian authorities and, indirectly, by provincial authorities, given that Canada is a federation.

So, that is not really our role, as we are not in a position to apply pressure. But there is no doubt that we have a strong desire to see the situation corrected.

[English]

**Ms. Kim Pate:** I'm sorry that I can't shed more light on why we haven't. I would echo what Mr. Tremblay has said. I'm holding here a copy of a letter that was sent from the minister in response to a submission that our organization, Mr. Tremblay's, and Amnesty International made. It expresses support in principle for the optional protocol, indicates our involvement in ongoing discussions, and indicates that we support the fundamental elements of the optional protocol.

So it seems as though it would be a wonderful thing if this committee could put a little bit of a push on to urge the government to in fact take the next step and sign. As we've said, we would in fact like to see ratification. We don't think it's too difficult to implement

in Canada, despite the nature of the federation, as Mr. Tremblay has said. There are mechanisms already in place that could be provided with the authority to pursue those areas. There are very few areas where they may not be. I think we can work on this.

[Translation]

**The Vice-Chair (Mr. Mario Silva):** Are there no further questions? Very well.

Mr. Sorenson.

[English]

**Mr. Kevin Sorenson (Crowfoot, CPC):** Thank you both for being here and making your presentations before our committee. Certainly we appreciate your being here for this very important study that we're looking at this morning.

Very quickly, I want to say that, as a father, I'm sitting here and I get an e-mail from my daughter. She's in grade 9, and because of a couple of assignments that she didn't do so well on, her mother has threatened to not let her to go on her school camping trip. She responds by saying, "That's torture, Dad. That's torture." So people have different interpretations of what that word means. I don't give you that to diminish the work that you're doing.

We do recognize that there are many sad cases of countries and places where there is torture of prisoners, and it's very real. Canada wants to be certain that we do all we can to alleviate it, and to make sure that people don't go through those things.

Madam Pate, you mentioned that you were somewhat embarrassed by the Canadian government's not acting earlier. I think our guest in Geneva perhaps had a partial answer to that, which was that we have had three governments in the past four years. When this came at the end of 2002, into 2003, there were issues going on, and there probably still are, and I'm glad to hear that our minister has responded very positively to the principle of what this protocol does and is looking at it.

My question would be on the federal and provincial requirements. Are there any requirements needed in order to implement this optional protocol? As far as you know, and maybe this is the question to be asked of the minister, have there been ongoing discussions with—and I'm thinking of when we talk and relate to the penitentiaries and things that are going on, because mention was made of the ladies' penitentiary in a number of different places—the provinces or territories on the implementation of this protocol? It's more than just signing on to something. Is there a courtesy that should be extended to our provinces in a case like this?

•(1150)

**Ms. Kim Pate:** I'm not aware of the particular discussions. It would be my understanding that there would have been some discussions of this nature. So I'm certain that you would be privy to those, even if I'm not.

Yes, I think there need to be some of those discussions. Certainly there are mechanisms that exist now, in terms of heads of corrections, in terms of policing authorities, and in terms of federal-provincial-territorial discussions and meetings that regularly take place.



If it has not been on the agenda, I would be surprised. I would suspect that encouraging more discussion about how this could actually be implemented would be a useful thing for this committee to do.

**Mr. Kevin Sorenson:** I'll look forward to the answer from our guest in Geneva, as well.

I haven't read through the protocol. I haven't done my homework as I perhaps should have before this. Are there financial implications? Obviously there would be more requirements from Corrections and from others. What type of financial implications would you see this protocol subjecting the Government of Canada or the provinces to?

**Ms. Kim Pate:** There may be some financial implications. I would suspect, though, that the current mechanisms that exist, such as the Correctional Investigator, the policing bodies, and some of the other ones that Monsieur Tremblay spoke about, already do some of that work. But providing an opportunity for more proactive intervention to go on in things like surprise visits and being able to look at what's happening might actually save Canada money by preventing wrongful imprisonment suits on matters of torture.

I recognize your point about how torture is defined. The reason I talked about torture existing at this stage is that it's been well recognized that the extensive use of segregation is a form of torture, and that has occurred and continues to occur in our country. I suspect it's something that you as parliamentarians should be concerned about, in terms of the eventual long-term potential human and financial cost implications.

**Mr. Kevin Sorenson:** When we go into a lockdown situation in a prison or when someone—I'll use the word "misbehaves"—it's much more than that—and they're put into solitary confinement, do you believe that would be a form of torture?

**Ms. Kim Pate:** I think you might want to look at who's actually in our segregation cells. I used to work with young people and with men. In the last fifteen and a half years I have worked with women. The majority of the people in isolation are people who have mental health issues.

It's a form of torture, and part of the issue to be looked at is the Canadian government's responsibility in that respect. I would suggest that it's not because anybody intends to torture someone. When you put someone in a position because that's the only place they can be monitored in a prison setting and it becomes a torturous experience, that's something you should be concerned about. I suspect you are. It's not merely, as perhaps is more commonly believed, because people have necessarily misbehaved.

When Madam Justice Arbour looked at the situation, she recommended a limit on the amount of time people could be placed in segregation because of the significant implications that kind of isolation has on individuals, both on themselves and as well, when they ultimately return, to the community. You don't want people coming out who have been kept in that kind of isolation. As I mentioned, the human and financial costs of that are huge.

• (1155)

**Mr. Kevin Sorenson:** If we fear for the offender's life or for their well-being in our penitentiaries, sometimes I would imagine Corrections or the correctional officers or whoever would see that

they get segregation. The one who might become the victim of other inmates would then be segregated in solitary confinement.

On one hand, it may be done for their good, for their protection, but on the other hand, they might be saying this is torture. So again, we come to the definition of what's happening here.

**Ms. Kim Pate:** I would suggest two things to you.

One, a mechanism like this and an independent international body that might visit could make an assessment that might assist the government in this not being seen as torturing. That would be one point.

Secondly, in my experience the people who work in corrections—senior managers, front-line correctional officers—are all in general agreement that those situations are not beneficial. In fact, they would like some additional mechanisms to help push for alternatives. I would suggest that there would be fairly good support for looking for those sorts of alternatives.

Those are the sorts of discussions I have all the time. In the last few days I was in three of the women's prisons dealing with exactly those issues.

**Mr. Kevin Sorenson:** I'm just wondering if Mr. Tremblay has any comments on any of the questions that have been posed.

[*Translation*]

**Mr. Philippe Tremblay:** Yes, I would like to briefly come back to the definition of torture. In fact, under international law, torture can be defined as acute suffering inflicted by a public agent—in other words, an agent of the government—either intentionally or with the approval of an agent of the government, with a view to extracting a confession or for the purposes of punishing the detainee. However, it is important to remember that the actual name of the U.N. convention is the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. All of those other types of treatment are subject to the same prohibition as torture, in the strict sense of the term.

But let's briefly recall the infamous case of mistreatment of persons with mental disabilities at the Centre hospitalier Robert-Giffard in Quebec. As I recall, the patient had spent six or seven days in his excrement. Now the question was never put to the Committee against Torture, but having read some of the comments made by the Committee, I can assure you that it would have considered this type of treatment to be cruel, inhuman or degrading, within the meaning of the Convention, even though it wasn't torture *per se*. It is probable that hospital staff did not intend to torture the individual, in the strictest sense of the term, but this type of negligence is strongly condemned and prohibited under the United Nations Convention against Torture.

**The Vice-Chair (Mr. Mario Silva):** Thank you, Mr. Tremblay.

[English]

Before we get to the next member to ask questions, I just want members to be aware of the fact that concerning the definition of torture, Canada has already signed on to that convention. There is an international convention against torture that many countries have signed on to, and the definition is already established.

We're not arguing about the definition of torture. What we are discussing here is the optional protocol that deals with mechanisms of visiting jails and so forth. So we're not going to revisit a debate about what is torture or what's not torture. That has already been established, and Canada in fact agrees and supports the present convention on torture and the definition that is within that convention.

Mr. Marston, you're the next questioner.

• (1200)

**Mr. Wayne Marston (Hamilton East—Stoney Creek, NDP):** Mr. Chair, after your remarks just there, you may find my intervention interesting.

I think when we're talking torture, people today should take a moment and watch a movie called *The Road to Guantanamo*, because there are new sophisticated tortures—for example, tying a person's feet to the floor in a crouched position in a white room with loud music for hours on end, and sleep deprivation. We tend to think of torture as something like you've seen in a movie about World War II, suggesting some of that type.

The UN conventions that we signed on to and are party to are the bare minimum in many cases that we can, as human beings, respect. Just look at the signatories: Azerbaijan; Chile; Mexico, which is one of the state parties where we've had Canadians with extreme difficulties; Sierra Leone; and Turkey. When you see those countries signed on ahead of a progressive country like Canada, that is an embarrassment to me.

When one considers lately the stories of how incarcerated Canadians abroad are being treated—Almalki, Arar, perhaps Huseyin Celil in China—at least two of these people have spent time in coffin cells. And consider the Canadians in Mexico, when the police are investigating crimes down there, and the treatment they're receiving. I think people should pause for a second and understand there are 3,000 Canadians incarcerated worldwide right now. There are allegations of torture in a number of areas.

I have a copy of a letter very similar to what you had from the minister, and it says that the Government of Canada actively participated in the negotiations of the optional protocol. In fact, it shepherded it through the UN. It voted in favour of its adoption, and Canada supports the fundamental elements. This is a letter that says we should sign it.

My understanding is that there is a push and shove between this government and the provinces. I don't know whether that's around cost, but that's what I'm hearing. Have you heard anything along those lines?

**The Vice-Chair (Mr. Mario Silva):** Ms. Pate.

**Ms. Kim Pate:** We certainly hear rumours.

And it would be our recommendation that this committee could actually assist this process by asking the Department of Justice, which has carriage of the implementation of adherence to international instruments, to actually take steps to engage the provinces and territories and determine what are the financial needs and other mechanisms, if there are mechanisms needed in some of those areas, to in fact obtain that information and then be able to make the decision accordingly.

**The Vice-Chair (Mr. Mario Silva):** Mr. Marston.

**Mr. Wayne Marston:** The other thing we have happening within our own country is that we have people who are held under security certificates for five years in a country whose laws talk about innocence until proven guilty. Even though recently some of them have been released under house arrest, wherever they go they have to structure, with the department, who is going to follow them. The timing, when they're out, is so bad that when they pass through street lights, if they miss one they might not make the timing. And if they want to go into their backyard, someone has to go out with them and come back in with them. Every move they make is monitored. There are people who would call that into question as well.

I think it's important that Canada gets up front and makes it clear to the world that we take the definition of torture very seriously, and we also take seriously the definitions in our Canadian law, that we can't circumvent them and we shouldn't circumvent them. In this case I have very strong feelings that this has been a critical mistake made in this country.

**The Vice-Chair (Mr. Mario Silva):** Thank you.

Dominique.

[Translation]

**Ms. Dominique Larochelle (Member of the Board of Directors, Canadian Association of Elizabeth Fry Societies):** Good morning. I would like to comment on what Mr. Marston said.

The situation is equally troubling as regards the use of statements or testimony obtained under torture. As regards security certificates, the Harkat and Charkaoui cases have come before the courts or may still be before the courts. The Government of Canada had used evidence in those cases—for example, with Abu Zubaydah et Maher Arar, where serious allegations of torture were upheld. Such evidence may still be coming forward in cases examined before courts of law here in Canada. That is certainly a concern.

I would like to add that in the Arar case, Justice O'Connor's report recommended increased monitoring mechanisms and more transparency with a view to controlling government activity. In addition, the Quebec Bar voted last Saturday in favour of a resolution aimed at encouraging the Canadian government to implement the monitoring mechanisms recommended by Justice O'Connor. So, there is a well-established desire, at least among the legal profession in Quebec, to increase monitoring mechanisms.

• (1205)

**The Vice-Chair (Mr. Mario Silva):** Thank you.

Mr. Marston.

[*English*]

You have a minute left.

**Mr. Wayne Marston:** I have just one last comment, and it won't take that long.

To have someone come in and talk to this committee from the Department of Justice, I think, is crucial. If there's a problem we need to confront head on, before we give our advice to the government, I think that's very important.

Thank you.

**The Vice-Chair (Mr. Mario Silva):** Thank you.

Ms. Pate, you have a few seconds.

**Ms. Kim Pate:** I would say that two specific things be requested that the Department of Justice report on, and those would be the steps that have been taken to engage the provinces and territories in this regard and the potential financial implications, if any.

**The Vice-Chair (Mr. Mario Silva):** Thank you very much.

We will now go to our second round.

[*Translation*]

Mr. Khan, please proceed.

Mr. Sorenson.

[*English*]

**Mr. Kevin Sorenson:** I'll ask another question.

Mr. Marston brought up the certificates. And again, that was a measure that was put in to protect our country, to protect the security of our country. It was a measure that was needed, that police forces were asking for, that so many different groups were asking for. One of the reasons we don't extradite some people is that we've signed conventions that say we will not extradite to a country where they will be tortured.

My question is, does our signing this supplementary protocol in any way tie the hands of governments in what they can do in a case similar to the certificates? In a case where we're talking about national security or in a case where, through intelligence-gathering agencies, they may be suspect, and we can't extradite them because of this, would this other protocol do the same thing in any manner?

**Ms. Kim Pate:** Ms. Larochelle is more expert on this than I am, and Monsieur Tremblay may have—

[*Translation*]

**Ms. Dominique Larochelle:** Can I answer in French?

[*English*]

**The Vice-Chair (Mr. Mario Silva):** Let's start with Dominique and then Monsieur Tremblay.

Go ahead.

[*Translation*]

**Ms. Dominique Larochelle:** I will give Mr. Tremblay an opportunity to answer.

**Mr. Mario Silva:** Mr. Tremblay, would you like to begin?

**Mr. Philippe Tremblay:** I would simply like to say that is a whole other debate. In fact, the Optional Protocol, the mechanisms it provides for and the preventive visits in no way call into question the reasons behind the arrest and detention of persons held in these places. The idea is really to look at how these detainees are being treated. I would say that Mr. Sorenson's questions fall more within the jurisdiction of organizations such as the Working Group on Arbitrary Detention. I am referring here to the U.N. group which came to Canada in June of 2005, if I'm not mistaken.

However, to answer your question, I would say that the Optional Protocol has nothing to do with that kind of debate. It is completely different. Of course, Canada will continue to meet its commitments under the Convention against Torture. The Protocol simply builds on the obligation to prevent torture which, as I said, is laid out in Article 2 of the Convention.

[*English*]

**Mr. Kevin Sorenson:** I don't know if Madame Larochelle wanted to answer, but I do have one other question that you may want to answer at the same time.

**Mr. Mario Silva:** Mr. Sorenson.

• (1210)

**Mr. Kevin Sorenson:** In regard to our Canadian Forces abroad, would this protocol interfere in any way with the ability of our Canadian Forces to conduct legal interrogations?

**The Vice-Chair (Mr. Mario Silva):** Just to let everybody know, the reason I'm going to be announcing everybody's name before they speak is for Mr. Tremblay.

Dominique.

[*Translation*]

**Ms. Dominique Larochelle:** Thank you.

To answer your first question, from what I understand of the Protocol, it is more a monitoring mechanism than an instrument that confers rights upon people wanting to claim protection against torture. The debate regarding the return of such individuals to countries where they risk being tortured was partly resolved by the Supreme Court in the Suresh ruling. I know that a new application, which is now before the Supreme Court, has been made for reconsideration of the Suresh ruling. So, this matter is once again before the Supreme Court of Canada. I would just say that whether or not the Protocol is implemented, the individuals you referred to are already protected by the U.N. Convention Against Torture.

[*English*]

**Mr. Mario Silva:** Mr. Sorenson.

**Mr. Kevin Sorenson:** The second question is this. In regard to the forces, on legal interrogation, are you saying this protocol is not relevant?

[*Translation*]

**Ms. Dominique Larochelle:** I don't have an answer to that. Mr. Tremblay may wish to respond.

**The Vice-Chair (Mr. Mario Silva):** Mr. Tremblay, would you like to answer that question?

**Mr. Philippe Tremblay:** Yes.

I would simply like to point out that the visit mechanisms carry with them the responsibility to visit persons deprived of their freedom in places that are under the jurisdiction or control of States Parties. Therefore, if Canada were to ratify the Protocol, one could expect that Canada's national prevention mechanism would include visiting persons detained by the Canadian Forces beyond Canadian territory. However, that is still somewhat theoretical, and I will come back to the reasons for that a little later.

Practically speaking, if we take the example of Afghanistan, I do not believe the Canadian Forces detain Afghan nationals for extended periods of time. However, if that were the case, Canada's national mechanisms would have to provide for the power to order such visits. It's important to remember that the ultimate goal of the Protocol is not to judge or condemn states, if ever a violation of the Convention against Torture is noted. The whole point is to help states correct certain practices. Therefore, the U.N. Sub-Committee for the Prevention of Torture, which was established when the Protocol came into effect, carries out its work confidentially and in a spirit of cooperation and collaboration. It is important to emphasize that point, so that people are not left with the impression that the national mechanisms are intended to denounce certain practices. That is not at all the purpose. The idea is really to improve the way in which detainees are treated.

**The Vice-Chair (Mr. Mario Silva):** Thank you.

Ms. St-Hilaire. You have no questions. Very well.

Mr. Marston.

[*English*]

**Mr. Wayne Marston:** It's really hard to have the discussion without talking about some of the tortures that are out there, or some of the inappropriate handling of people that has occurred when they were in custody of one country or another. Abu Ghraib is one of those places. If you've seen the pictures and the descriptions of what occurred there, the mistreatment of prisoners with humiliation and beyond, to my mind the protocol, as you've just indicated, helps countries that may stray into this area come back to the side of the line we all would expect of civilized countries.

The other issue we face—and it's not something that Canada is doing, so I don't want anybody to think I'm saying that—is the rendering of people to third party countries that are known to torture, and then to use that evidence. From Justice O'Connor, there was an indication that some of the evidence from Maher Arar had been gotten by torture. As a result of that, does it not taint anything flowing out of it into Canada?

I don't want to overstress the security certificates, except that those were in place for years. They were in place before 9/11. They were used. Their intent was to use around people who were facing deportation, to have control over that. Now I'm told that people who

are held for five years in Canada were told if they wanted to go to another country, they were free to go.

I'm very troubled, because to me, not applying the court system of this country after five years on people's cases is a form of torture. You've withdrawn those people from their communities, from their families; you've put them into a place where they fail to receive the most fundamental right of our law, and that's the right to face the evidence against them and face the accusers against them.

So when we look at the protocol, it may sound strange to add that, but if we're not prepared to look at the ugly face of all forms of torture, then it's hard to make an evaluation. It's hard to understand at all how our country could not already be signed on to this.

I really appreciate what you've said to us about suggestions of whom to draw into this. Because when this committee's work is done, I want to ensure that we all are pushing hard for our country to sign on to this important protocol. Again, if we don't support the UN conventions that we do reach, then as a world community we're worse off for that.

• (1215)

**The Vice-Chair (Mr. Mario Silva):** Thank you.

Ms. Pate, do you have a comment?

**Ms. Kim Pate:** I just want to reinforce what Monsieur Tremblay said a few minutes ago, as well as what Mr. Marston has just said. The more one believes that Canada has a stellar reputation in terms of human rights protection, the more I would think we would want to sign on to this protocol, because it demonstrates that in fact we hold a very high standard, or a standard at least, which if we are not meeting, we certainly aspire to.

I'm reminded that in the last few days I've been in three of the federal women's penitentiaries. One of the things that more than one of the staff, including one very senior staff person, said to me was that my visiting helps hold them to a standard that they know they'll be looked at. They know I'll come in and I'll document what happens. They see that as a positive—most people.

Occasionally people will be concerned, but this is about holding that standard and aspiring to it, not about condemnation. Where there are problems—and there certainly have been problems, and I've outlined some of the problems I see that persist in our system—oftentimes the people working in that system recognize that a good living environment, if you will, for those who are detained is also a good working environment.

So aspiring to those kinds of humane, non-degrading, non-torturous...and I thank the chair for correcting us in terms of making sure we don't stray into trying to redefine what torture is. The reality is that when we have those standards, then as Canadians we can say we're living up to those standards as demonstrated by our desire to ratify and stand behind something we helped introduce. I think it sends a very clear message, not just to those who are detained but also to those who are working in those areas. They don't go into that work to be degrading or inhumane; they go into work because they want to do something positive.

**The Vice-Chair (Mr. Mario Silva):** Thank you very much.

The last question will be from Mr. Khan.

**Mr. Wajid Khan (Mississauga—Streetsville, CPC):** Thank you for being here today. As you are aware, Canadians and Canada are very conscious of the issues we are discussing today.

I'd like you to comment on how it would differ or benefit—because I think what you're talking about is already covered to some extent, in the articles 2 and 11.

Article 11 says:

Each State Party shall keep under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any cases of torture.

So how does what you're proposing differ from this? Does it not automatically become the responsibility of an individual state, based on article 11, to follow this procedure?

If this procedure is not being followed, how would the next protocol signed by Canada and the rest of the world help in areas such as Somalia or other African areas where there's very little regard for law? How can it be implemented? What is the practicality of implementation?

What major countries have signed on to it, and can you name some that have not?

• (1220)

**Ms. Kim Pate:** Monsieur Tremblay deals with and is much more knowledgeable about many of the international issues, so I'll leave those questions to him.

In Canada, the main difference I see—and it's a very important and vital difference—is that by signing on to the optional protocol and then ratifying it, we could invite the special rapporteur to come to look at what is happening. They could come of their own volition. Recognizing the value we place on human rights protection—It's an added protection for you as parliamentarians who represent the Government of Canada to be able to go out to your electorate and all Canadians and say, “These kinds of protections are here. So confident are we in that, we have ratified and will call on others to come to have a look. We will be transparent in the way we're operating.”

If you're interested in more of what the implications of this will be, in addition to the Department of Justice you may want to call in the Department of Public Safety, for instance, and ask officials to explain to you what steps they are taking and have taken to assess in the past, and how they ensure there are human rights protections.

There are certainly some deficit areas that we see. I suspect they may also have had some discussion about what it would mean to implement the optional protocol in Canada in the oversight of penitentiaries, the RCMP, detention cells generally—especially remand, and how that would overlap when the RCMP are detaining in a temporary detention situation. What would it mean in oversight of aboriginal justice initiatives, and that sort of thing? There are all of those areas and immigration cells, including where they have exchange of services agreements with mental health facilities. You could ask for that kind of input as well. That would give you a much better picture.

But I think the recommendation that we do this is very much about increasing our ability to monitor and our likelihood of adherence to those international obligations, which I agree are very important and already exist.

So that's my view. I have a list of the countries that have signed on, but Monsieur Tremblay is much more involved in that internationally.

**The Vice-Chair (Mr. Mario Silva):** Monsieur Tremblay.

[*Translation*]

**Mr. Philippe Tremblay:** I quickly named some of the larger countries that have signed or ratified the Protocol. I am thinking of Germany, Great Britain, New Zealand, which ratified it in March, France, which has signed it and is preparing to ratify it, Brazil, Argentina and South Africa. If you were to ask which countries have not ratified it and have no intention of doing so, I would simply say that when the Protocol was adopted by the United Nations General Assembly, only four countries opposed it.

As you know, the United States has ratified few international treaties, but we refuse to be discouraged by that. We have already travelled to Washington, and have had talks with people at the State Department to remind them of the importance and the ultimate goal of the Protocol. Japan expressed great reluctance. However, when the vote finally came, it abstained. Japan was assessed by the Committee against Torture several weeks ago and told the Committee that the Protocol is now being reviewed and that it is considering ratifying it. Nigeria, which was one of the four countries that voted against, told the Special Rapporteur on Torture a few weeks ago that it intends to move forward on this.

So, political changes are occurring. Australia has yet to ratify it. We are planning to visit Australia in September and work with our Australian partners to try and persuade Australia to join the group of States Parties. There is a real movement afoot. Of course, Russia, India and China are countries that are traditionally more wary and less willing to support this kind of instrument, but I do not believe Canada has any desire to be part of that group of countries which are dragging their feet. I think it would prefer to show leadership.

Very quickly, I would just like to mention what I see as obvious advantages for Canada in ratifying the Protocol. This would allow it to ensure complete coverage of all places of detention. I was saying earlier that the APT has not had time to carry out an in-depth study of the situation here in Canada, but it seems to me there are some places of detention in Canada that are not subject to visits through independent mechanisms. Therefore, ratifying and implementing the Protocol would be an opportunity to close that gap.

The U.N. Sub-Committee for the Prevention of Torture would come to Canada, as well as all the other States Parties, but only on an ad hoc basis. One cannot imagine the 10 independent experts being able to make very frequent visits to all the States Parties, but even if the Sub-Committee only came to Canada once every four or five years, it would still have a chance to make useful and practical recommendations. The Chair of the Sub-Committee is a British woman who was previously a member of the European Committee for the Prevention of Torture, and she thus has a tremendous amount of experience. I believe Canadian authorities could benefit from the knowledge of international experts of that stature.

• (1225)

[English]

**The Vice-Chair (Mr. Mario Silva):** Thank you.

Before I thank all the witnesses, I want to make a little comment, since I didn't have a chance to ask any questions.

To the witnesses and the members, I strongly believe it's a question of time. Canada has always ratified and participated in international forums and conventions, so I fully expect that we will one day ratify it. I can't believe we will not ratify this optional protocol. It's a question of time.

Certainly as members of this subcommittee, which is part of the human rights committee, if we are not the ones encouraging the government to ratify this I'm not sure which other committee will do that in Parliament. I think we have a responsibility to hear from the witnesses what the concerns are. We will be hearing from the foreign affairs and justice departments next week on Tuesday, and also from Alex Neve of Amnesty International Canada.

At the end of the day, I believe it's going to be a question of time. Canada has always signed on to the major international treaties such as this one. We were very strongly supportive of the convention on torture. I'm sure we will also be there with the optional protocol.

[Translation]

I would like to thank Mr. Tremblay and Ms. Larochelle.

[English]

Also to Kim Pate, thank you very much for coming before our committee.

[Translation]

We now are going to deal with a notice of motion from Caroline St-Hilaire.

**Ms. Caroline St-Hilaire:** Thank you, Mr. Chairman.

Would you like me to move my motion?

Fine. I'm sorry; I was trying to convince my colleague opposite to support the motion.

Basically, Mr. Chairman, this motion deals with Munir Said Thalib. Most Committee members have met his wife. Mr. Munir is now deceased. There was an investigation in Indonesia. I could read the motion, leaving out the whereases. Basically, what we are asking is:

That Canada use appropriate diplomatic means to express publicly to the Government of Indonesia its profound disagreement with the non-publication of the report of the Presidential Commission [...]

There was a commission of inquiry, but the information was never made public, and that is what we are seeking through this motion.

I do hope I can count on the support of colleagues.

**The Vice-Chair (Mr. Mario Silva):** Is there any debate? Do you have any questions? Are you ready for the question?

Mr. Sorenson.

[English]

**Mr. Kevin Sorenson:** Mr. Chairman, I'm just wondering. How long has this motion been in the works?

**The Vice-Chair (Mr. Mario Silva):** I asked the clerk on that. She mentioned to me it was given 48-hour notice. It was given on May 31.

**Mr. Kevin Sorenson:** All right. If it was given proper notice, it's certainly in order.

I'll level with you. I have not really studied this to any extent. I look at the motion, and it has the event that took place and what led to this motion. Again, I have some concerns when the Government of Canada is publicly expressing to another government its displeasure at not releasing a report. I have no other information as to why it wasn't released. Was it an internal document? Were all those things part of it? I haven't had the opportunity to really look into this.

Other motions have come before our committee as well that have expressed profound frustration with other governments, other sovereign governments, in internal matters. This certainly goes beyond being an internal matter. It's human rights. It's an atrocity.

But as for the specifics of why it wasn't released, this just says we express our profound disagreement with not releasing the report. I'm not prepared to vote on that, because I don't know any other information other than that the report wasn't released. Do we have other documents? Was this brought out of a news story?

I'll ask Madame St-Hilaire what moved her to bring this motion to this committee.

•(1230)

[*Translation*]

**Ms. Caroline St-Hilaire:** Munir's widow did come to Parliament Hill and, as I was saying, I believe she met with quite a few parliamentarians, particularly members of the Sub-Committee on International Human Rights. I understand your unease, but at the same time, that is precisely the reason why the wording is toned down, I would say, since it talks about diplomatic means. I realize that we are not necessarily asking... The Bloc is never particularly in favour of political interference in the affairs of other countries. However, there was a presidential commission of inquiry on the murder, and Munir Said Thalib is not just anybody. He was a very important figure as regards human rights. I believe the Sub-Committee has a mandate to pressure the government to ensure that proper diplomatic means are used. In actual fact, we are not asking for condemnation, but rather for bilateral dialogue with Indonesia, in order to request that the report be made public so that people are aware of what occurred.

I would ask that the motion be put to a vote today.

[*English*]

**Mr. Kevin Sorenson:** Can I ask Madame St-Hilaire a question? The widow of the individual who was murdered, is she Indonesian or is she Canadian? She's Indonesian. But she was here?

[*Translation*]

**Ms. Caroline St-Hilaire:** She is not Canadian.

[*English*]

**Mr. Kevin Sorenson:** All right.

[*Translation*]

**Ms. Caroline St-Hilaire:** I should add that she came on the weekend of the 28th and 29th of May, in the context of annual bilateral discussions between Indonesia and Canada in Vancouver.

That is why she made a brief visit to Ottawa, and a number of other places—hence the relevance of this motion, Mr. Sorenson.

[*English*]

**The Vice-Chair (Mr. Mario Silva):** Okay. Are there any further questions?

[*Translation*]

The only thing I want to know is whether it would be possible to propose a minor amendment. Your recommendation begins with the words: “that Canada use appropriate diplomatic means [...]”. However, when you use diplomatic means, you don't express things publicly. It's either a diplomatic action or a public action, but not both. A diplomatic action is carried out between two governments; it's not public. Are you asking for the government to take public action or diplomatic action?

[*English*]

**Mr. Kevin Sorenson:** I think, Mr. Chair, with all due respect here, that she's probably got good wording on it. She's said that Canada use “appropriate” diplomatic means. It's not just diplomatic means, but that which would be appropriate to express publicly. So there may be some venue here, in fact, that in some ways gives me more confidence in this motion than just saying that Canada use diplomatic means to express publicly. I think she's used a good word, putting in “appropriate”, because there may be some measures that diplomacy would view as being appropriate and others not.

•(1235)

**The Vice-Chair (Mr. Mario Silva):** Okay, so we'll have a vote.

(Motion agreed to)

**The Vice-Chair (Mr. Mario Silva):** Thank you.

I think there's no other business.

The meeting is adjourned. Thank you very much.







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