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# Special Committee on the Canadian Mission in Afghanistan

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EVIDENCE

**Wednesday, December 9, 2009**

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**Chair**

**Mr. Rick Casson**



## Special Committee on the Canadian Mission in Afghanistan

Wednesday, December 9, 2009

• (1535)

[English]

**The Chair (Mr. Rick Casson (Lethbridge, CPC)):** I call the meeting to order.

**Mr. Laurie Hawn (Edmonton Centre, CPC):** I have a question, a clarification on witnesses. I'd just like to—

**The Chair:** Excuse me, would you repeat that? I'm sorry, I didn't hear

**Mr. Laurie Hawn:** I have a question about clarification on witnesses. I would like to request the status of the previous Liberal ministers that we invited to appear before the committee today.

**The Chair:** From what I understand, former minister Graham and former minister Manley were both invited. We had a response from former minister Manley that he was travelling and a response from former minister Graham that offered alternative dates, as he wasn't available on this one.

**Mr. Laurie Hawn:** Thank you.

**The Chair:** This is the 19th meeting of the Special Committee on the Canadian Mission in Afghanistan. Today, members, we have three witnesses with us, but we also have a motion of privilege to be dealt with. So I'm suggesting that we keep the witnesses until five o'clock and then take the last few minutes to deal with the motion. I'll give you a chance in a minute.

I also understand that something is happening in the House and we could have bells here at any time. I'm not sure what's going on, but that was the word I got.

Today we have the Honourable Lawrence Cannon, Minister of Foreign Affairs; the Honourable Peter MacKay, Minister of National Defence; and the Honourable Gordon O'Connor, Minister of State and Chief Government Whip. I think everybody is familiar with the process.

Go ahead, Paul.

**Mr. Paul Dewar (Ottawa Centre, NDP):** Thanks, Chair. As to when we get to committee business, can we do our usual rounds and then go to committee business, as we have done in the past?

**The Chair:** Yes, that's what I'd like to do.

**Mr. Paul Dewar:** Thank you. Good.

**The Chair:** This is a 10-minute round, so it takes 40 minutes to get through the first one. So we should almost make it for two full rounds.

**Mr. Paul Dewar:** Okay.

**The Chair:** Welcome, all of you. You are familiar with committee proceedings. Do you all have opening statements?

**Hon. Peter MacKay (Minister of National Defence):** Yes.

**The Chair:** That's good. We'll start with Mr. O'Connor and move down the line, and then we'll open it up to questions.

Mr. O'Connor, Gordon, Mr. Whip, the floor is yours.

**Hon. Gordon O'Connor (Minister of State and Chief Government Whip):** Thank you very much, Mr. Chairman.

I was Minister of National Defence from February 6, 2006, to August 14, 2007. During that time, my primary focus was to implement the new government defence policy, especially with respect to equipment and infrastructure. With the support of my cabinet colleagues, I was able to commit a historical level of funding to start the rebuilding of our naval, land, and air forces. This involved the acquisition of equipment such as strategic and tactical airlift, medium to heavy helicopters, tanks, howitzers, armoured combat vehicles, armoured trucks, improvised explosive device road-clearing vehicles, personal equipment, Arctic patrol vessels, and joint support ships. It also involved the upgrade of the armoured personnel carrier fleet, the frigates, and the submarines, as well as infrastructure.

During my time as minister, military operations in Afghanistan were extremely intense. Shortly after we took responsibility for Kandahar province, the Taliban challenged our military by trying to encircle Kandahar City. They amassed their fighters in the area and engaged in conventional-style attacks. Our troops took them on and defeated all their attacks. The Taliban suffered large numbers of casualties and learned that they could not fight the Canadians in a straight-on battle and hope to win. They had to give up their goal of seizing the city of Kandahar and reverted to harassing our forces by using improvised explosive devices and suicide bombers.

To support our troops, our government accelerated equipment deliveries and provided new capabilities that helped them fight the insurgency. While I focused on rebuilding the Canadian Forces, each day I received a briefing on current operations and intelligence, and normally the primary item of these briefings was Afghanistan. In general terms, I was advised of what was happening, what was being planned, and whether we had any detainees. With respect to detainees, I was usually informed of their state of health, whether they were getting medical care, and how long we anticipated detaining them. I believe that NATO had asked that we transfer detainees to the Afghan authorities within 96 hours of capture, subject to their specific medical needs.

Our military has responsibility for the supervision of detainees from the moment they are detained up until the point at which they are transferred from the detention site at Kandahar to Afghan authorities. During my time as minister, I do not recall ever being advised of any abuse or torture of prisoners by Canadian Forces members or any abuse or torture of detainees that they handed over to the Afghan authorities.

The members of the Canadian Forces are professional and ethical. Their military operations are guided by the rules of war, and each soldier is instructed to treat all detainees to the standard of humane treatment as set out in the Geneva Convention. I find it outrageous that members of the opposition go on and on in the House of Commons talking about a cover-up of abuse and torture. In effect, what they are saying is that the government and Canadian Forces are in some form of collusion on abuse and torture. But for this fallacy to occur, up to eight levels of the army would have to be involved through three or four rotations. This involves thousands of people. This would be the cover-up of all cover-ups and is a premise that simply goes beyond common sense. The opposition may not like how we are conducting this war, and that is their right, but to in effect accuse the government and the entire chain of command of the military of a cover-up is irresponsible.

I visited the troops in Afghanistan four times while I was minister, and during my third visit I visited the Afghan prison in Kandahar. I was accompanied by a few Canadian military and civilians, one of whom was from the Correctional Service of Canada. The prison had three categories of prisoners: political, criminal, and youth.

Seeing the prison first-hand was like stepping back in time. It was medieval-looking, with stone culverts on each side of the main access. I asked to look in cells at random, and their prison cells held many prisoners and were very grubby. I went into areas that housed political and criminal prisoners. I also asked to see the guards' quarters, which, to my surprise, were no better, except that they did not have locked doors. At no time did any Canadian accompanying me or any inmate make any accusation of abuse or torture. In fact, during my four visits to Kandahar and three visits to Kabul, I do not recall anyone, military or civilian, ever mentioning the abuse or torture of prisoners. And during my time as minister, I do not recall ever reading correspondence from Mr. Colvin.

I'm very proud of our government's achievement during my time as Minister of National Defence, and I was honoured to lead the department with such high-quality servicemen and servicewomen, as well as dedicated public servants.

• (1540)

In Afghanistan, the performance of our troops has been magnificent. They have defeated and disrupted Taliban activities since arriving in the province in 2006. They have helped deliver aid and reconstruction to the local communities and have trained and mentored large numbers of Afghan soldiers.

Without a doubt, we have the very best army, soldier for soldier, in the world. Because of their bravery and their commitment to the mission, they have suffered many casualties. They have offered and continue to offer all that a country can ask of them, and I thank them for their sacrifice on our behalf.

In closing, I want to say that as a current member of the government and a former Minister of National Defence, I am proud of what we have already done and continue to do in Afghanistan. Further, military operations in Afghanistan have been conducted in accordance with international laws, and there's no evidence whatsoever of the involvement of our troops in the abuse or torture of detainees or the condoning of any theoretical abuses by Afghan authorities. I do not recall ever having been advised, as minister, of any involvement of our troops in participating in or enabling abuse or torture of detainees, and I find the effort to claim a government-military cover-up of abuse and torture of Taliban detainees the lowest form of politics.

Thank you very much.

**The Chair:** Thank you, Minister O'Connor.

Minister MacKay.

**Hon. Peter MacKay:** Thank you, Mr. Chair.

Colleagues, I'm pleased to be here with you, along with my cabinet colleagues, Ministers Cannon and O'Connor, to address the very important dimension of our country's mission in Afghanistan.

I began my tenure as Minister of National Defence in August of 2007. I succeeded Minister O'Connor. Prior to that, I served as Minister of Foreign Affairs. I have been to Afghanistan nine times, most recently over the Remembrance Day weekend, and was proud to be there with family members of our fallen soldiers.

To begin, I want to set the record straight on two important issues.

Torture is abhorrent and can never be tolerated. It is not only contrary to international law but to our own Canadian values in a free and democratic society. Let me be clear: the Government of Canada has never been complicit in torture or any violation of international law by wilfully allowing detainees—Taliban prisoners—taken by the Canadian Forces to be exposed to abuse. No one ever turned a blind eye. The disclosure of information is done in accordance with Canadian law and is free from political interference.

Mr. Chair, I can clearly and firmly state, and in good conscience, that our military, our diplomats, our development officers, our police officers, and our corrections agents have acted and continue to act in accordance with the highest ethical and professional standards in the most challenging of circumstances. As was described by Minister O'Connor, this was a difficult, dangerous mission, and it continues to be so.

Having said that, I'm extremely proud, not only in my career as a member of the political class, but proud as a Canadian, to have associated myself with the men and women in uniform and those diplomats who continue to perform brilliantly in this mission, as they do in other missions around the world.

Mr. Chair, I'm proud as well that in the two capacities I've had the opportunity to see first-hand the extraordinary efforts that are being made by these exceptional Canadians. In Afghanistan we have a unified whole-of-government effort towards an overarching goal that was defined by the UN Security Council mandate establishing this mission: to build security, stability, and prosperity, and the hope that will come with them, for the Afghan people.

We are in that country at the invitation of the Afghanistan government, with over 60 nations, 40 of whom contribute militarily. Since late 2005, Canada has been operating in one of Afghanistan's most dangerous regions, namely Kandahar province. We have been there facing constant violence, attacks, and a ruthless insurgency intent on killing Afghans, killing Canadians, our allies, and partners participating in this international mission.

● (1545)

[*Translation*]

Mr. Chair, this mission is complex and difficult. We are engaged in an armed conflict. And we are working with others to create the conditions that will help Afghans rebuild their country and exercise fully their sovereignty.

This requires the Canadian Forces to go out in the countryside; the mountains; the villages; the streets of Kandahar city and the villages of Kandahar province. We do this in support of our development and governance work—to provide security for Canadians engaged in the task of rebuilding Afghanistan.

In the course of our mission, the Canadian Forces—like other coalition partners—take detainees. It is one of the realities of armed conflict.

The policies and practices around this issue have been—and remain—a major focus of the whole-of-government effort and a subject of constant attention and scrutiny because of the seriousness of this issue.

[*English*]

Mr. Chair, let me begin with the fundamentals.

Canada's military operations and practices are grounded in our commitment to international law, including the law of armed conflict, or as it is also called, international humanitarian law. This includes, of course, the Geneva Convention. There is not a Canadian Forces member deployed to Afghanistan who is not fully familiar with the fundamental legal framework and the obligations for conducting operations. This is part of their basic training.

Let me state clearly, Mr. Chair and colleagues, that when our personnel in theatre—military, diplomatic, or others—have raised concerns, as a government we have acted. This is part of what we do; this is part of what we expect; this is part of the chain that comes from the people in theatre. It is part of the values and ethics, commitment, and professionalism that permeate the Canadian mission and the actions of Canadians serving on this mission.

Mr. Chair, you've heard from others on the complexity of issues we were dealing with at the time when we first deployed into Kandahar province. Notwithstanding the dangers and challenges of these early days, Canadians on the ground carried out their many

responsibilities in partnership with the fledgling Afghan institutions and their players. This included meeting our obligations and our expectations regarding Taliban prisoners.

Canadian soldiers and civilians worked within the framework of the initial 2005 agreement put in place by the previous administration and with the Afghan government on the issue of Taliban prisoners. They acted within our legal obligations. Canada obtained assurances from the highest levels of the Afghanistan government in the course of our regular and constant engagement with them, from the level of president to local officers, that Canadian-transferred detainees or prisoners would be treated humanely.

Even so, clearly the situation on the ground evolved, as it continues to evolve. Our military and civilians on the ground and their teams in Ottawa received information from a wide variety of sources: from Canadian officials, our allies, embedded media, international organizations, and others. We carefully considered this information and used it to think about how we could improve the arrangement with the Afghan government. That's why we acted decisively.

In May 2007, a supplementary arrangement with the Government of Afghanistan was concluded and signed by our ambassador at the time, Arif Lalani. We negotiated this supplementary arrangement because we had, like our international partners, shared concerns regarding the conditions in Afghan detention facilities. The supplementary arrangement drew on the lessons we had learned from 2006 to 2007 and reflected the evolution of the facts on the ground and the information received from various sources. It was designed to enhance Canada's ability to meet its obligations and to assist the Afghan government to meet their responsibilities. It is a sovereign country.

The arrangement introduced a number of new provisions, Mr. Chair, including full and unrestricted access by Canadian officials to Canadian-transferred detainees, provisions for facilities for monitoring detention conditions as well as the well-being of Canadian-transferred Taliban prisoners within those Afghan detention facilities. It also included a specific provision that Canadian-transferred detainees would be held in a limited number of facilities; a reinforced role for the Afghanistan Independent Human Rights Commission, which includes full and unrestricted access to Canadian-transferred detainees; and the reaffirmation of the International Committee of the Red Cross's unrestricted right under international law to visit detainees in the context of armed conflict.

Canada put real resources to work within the Afghan prison facilities and the Afghan system to build the capacity they needed to exercise their responsibilities. We have made it a core objective to help Afghans rebuild and strengthen their justice system, and we have remained vigilant. We have taken allegations of abuse seriously, Mr. Chair, and we have acted when required: on the battlefield, in Kandahar, and in Kabul with the Government of Afghanistan. That includes directly communicating with Government of Afghanistan officials, up to and including the President, when issues arose. We have worked assiduously to ensure that the Afghan authorities were fully aware of Canada's expectations regarding their responsibilities and the treatment of Canadian-transferred Taliban prisoners.

We must remember again that we are in a sovereign country at their invitation. We are there to support, train, monitor, mentor, build, but not replace the sovereign authority of the Afghan government. In accelerating their capacity, we also accelerate our return home.

• (1550)

It's important to note that Canada is not alone in this approach. ISAF allies and partners work in support of the Afghan government's sovereignty, and I believe that is within the spirit of the UN mandate and the Afghan Compact, which lays out with the international community the Afghan government's objectives and priorities for international assistance. That does not mean we are uncritical or undemanding. We are not. We are, in fact, critical and demanding. But we are also respectful of Afghanistan and its sovereignty. And this means we must rely on the Afghan government to fulfill its commitments and work with the Afghans to give them the capacity to do so where that capacity is lacking. It's our responsibility and obligation to ensure ourselves that we are not transferring detainees into a substantial risk of abuse. And that is what we did, Mr. Chair.

**The Chair:** I have to interrupt. The bells have started, and I understand, unless there is unanimous consent to continue, I must adjourn the meeting for the vote.

**Mr. Paul Dewar:** Do you ask for unanimous consent?

**The Chair:** Not adjourn, just suspend for the vote.

**Mr. Claude Bachand (Saint-Jean, BQ):** What is it? A thirty-minute bell?

**The Chair:** It looks like it.

**An hon. member:** So you could continue for at least 20 minutes.

**The Chair:** Is there unanimous consent...?

I have no option but to suspend the meeting until after the vote.

**Mr. Laurie Hawn:** The NDP concurs with the motion, by the way.

**Mr. Paul Dewar:** Mr. Chair, is the government saying they don't want to continue up until five minutes to the vote, which is just down the hall?

**Mr. Deepak Obhrai (Calgary East, CPC):** Why did you call a vote?

**Mr. Paul Dewar:** I didn't call the vote.

**The Chair:** The meeting is suspended.

**Mr. Paul Dewar:** It's a government motion, isn't it?

**The Chair:** The meeting is suspended.

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\_\_\_\_\_ (Pause) \_\_\_\_\_

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• (1635)

**The Chair:** We'll call the meeting back to order.

**Hon. Jim Abbott (Kootenay—Columbia, CPC):** Mr. Chair, I would like to note that the reason we did not get to hear from the ministers in a timely fashion was that the NDP put forward a concurrence motion, which is a procedural issue. They created this delay. At the vote itself, the delay was caused in no small part by the NDP, who were taking their own sweet time to stand up and take—

**Mr. Paul Dewar:** Who called the vote, Mr. Abbott?

Can we get on with this, Mr. Chair?

**Hon. Jim Abbott:** Now Mr. Dewar says that he would like to get on with this.

**Mr. Paul Dewar:** You called the vote, Mr. Abbott.

**The Chair:** Let's get on with the business. We have a minister here. He was closing in on the end of his presentation.

Go ahead, Mr. MacKay.

**Hon. Peter MacKay:** I was saying that it was the government's responsibility and obligation to assure ourselves that we are not transferring detainees, Taliban prisoners, to any location in which there is a substantial risk of abuse. To that end, we improved access. We've had to date over 180 visits to Afghan detention centres. We have embarked on mentoring of officials, both police officers and those working in detention centres. We have invested literally millions in the prison system and the prisons themselves. We've also improved lines of communication with international bodies like the Red Cross.

When I speak of responsibility, I'm speaking in the inclusive whole-of-government sense. While the commander of Joint Task Force Afghanistan holds the final decision on transfers, his decision is informed by a comprehensive understanding of the circumstances, including information based on the monitoring and the diplomatic analysis of the Department of Foreign Affairs. Neither the Canadian Forces nor the commander make decisions in the abstract.

[*Translation*]

Mr. Chair, I want to use the remainder of my remarks to briefly address two issues that have been raised by members of this committee.

First, I know that there have been concerns with the disclosure of information to the committee as you examine the issue of detainee transfers.

But I cannot emphasize enough that the government has a critical obligation to ensure that the lives of Canadians—civilians and military—are not put at additional risk by the potential release of information that may be of an operational security nature. We must also protect the relationships with our partners in Afghanistan who are so crucial in helping us conduct our mission.

• (1640)

[*English*]

Mr. Chair, to avoid such a situation that would endanger lives, government officials, lawyers, trained officials take a careful review of any documentation that is to be disclosed. Experts from various departments involved have vetted all documents and identified any sensitive information that could lead to danger for soldiers and personnel deployed. This is a well-established procedure within the Government of Canada, and it is free from political interference. I should add that it has also been the subject of review by the Federal Court.

Colleagues, the other issue I want to address before closing is the allegation that I have savaged a diplomat in public. This is, of course, false and completely untrue. I have not maligned or impugned anyone's character or integrity. I simply pointed out what at least seven other witnesses who testified here did as well, and that is there is insufficient evidence to back up claims that were made. I deliberately qualified my remarks at the time by saying they were not personal. I have not made this personal. I have never used the word "Taliban dupe", although it was attributed to me dozens of times in various broadcasts and publications. This would explain perhaps why certain diplomats have been of the mistaken belief that I have been attacking an individual, and have responded by attacking me.

Finally, colleagues, the other issue I would like to address is the call by some for a public inquiry to be held on this issue. There are already, by my count, three investigations into the exact subject matter, either under way or about to be completed. First, the Canadian Forces convened a board of inquiry to investigate the treatment of individuals detained by the Canadian Forces in April of 2006. The board concluded that the Canadian Forces, without exception, treated prisoners professionally and humanely, and it went on to say, Mr. Chair, that all their actions while dealing with prisoners complied with directives in place at the time of capture and were consistently above reproach.

Second, the Military Police Complaints Commission is currently investigating detainee transfers. The chair, independent of the government, decided to suspend the work of the commission and seek leave to appeal to the Federal Court for a decision affirming its mandate. Last week, however, the Federal Court of Appeal dismissed the application for leave, awarding costs against the MPCC, confirming that the limited nature and scope of the mandate

of the commission had to be followed. With the appeal denied, Mr. Chair, I would suggest that we will soon see the commission back underway with their investigation into the matter.

There is, of course, the work of this committee. I welcome your decision and your deliberations on this matter. The government is fully supporting the work of this committee, and as you can see, you have three ministers before you today, prepared to answer questions. In addition, you have heard from eleven witnesses, including all of the senior officials from the Department of Foreign Affairs and the military, most in close proximity to the time in question in the mission in Afghanistan. I can assure you, Chair, that our government will continue to fully cooperate with the committee on this issue.

Finally, let me conclude, colleagues, by recalling the way in which the situation has changed on the ground and the adjustments that we made and that our international partners are continuing to make to ensure we are doing the right things in terms of building security and promoting development and governance when dealing with the issue of Taliban prisoner transfers.

We have never denied concerns regarding the conditions within Afghan detention facilities. In fact from 2006 onward our government and officials were continuing to improve the system and invest millions of dollars in ensuring that their capacity continued to rise. We are constantly re-evaluating our approach in consultation with our allies, and of course with Afghan authorities.

Mr. Chair, the Canadian Taliban prisoner transfer regime that we have in place now is rigorous and thorough, and as you have heard from a number of witnesses, including Linda Garwood-Filbert of the Correctional Service of Canada, we are continuing in that endeavour. It is consistent with that of our allies and what they are doing, and consistent with what we have tried to achieve as a government, and with the Government of Afghanistan, in terms of respecting their sovereignty and of course developing their capacity to govern themselves and elevate their human rights.

Our Canadian team in Afghanistan is doing extraordinary work in a difficult and dangerous and sometimes horrific mission. We all know the costs that our soldiers have paid and their families have paid on this mission, Mr. Chair. They continue to perform exceptionally, and in my view are the epitome of grace under pressure.

Mr. Chair and colleagues, the Government of Canada takes its responsibilities in all aspects of this mission extremely seriously. Let there be no mistake: the work that has been done by the Canadian Forces has been done with dignity and with integrity, and I am proud in every way to associate myself with their actions.

• (1645)

Colleagues, I look forward to your questions. Thank you.

**The Chair:** Thank you, Minister MacKay.

Minister Cannon.

[*Translation*]

**Hon. Lawrence Cannon (Minister of Foreign Affairs):** Thank you, Mr. Chair.

When I became Minister of Foreign Affairs on October 30<sup>th</sup>, 2008, senior officials in the department told me of a series of issues related to my portfolio. This included bilateral relations with the international community, particularly with the United States; multi-lateral issues such as the economic crisis, disarmament, human rights and, in particular, terrorism; international forums such as the Commonwealth, the Francophonie, NATO, the United Nations and the G8; the Arctic; fragile states; management of consular issues; and of course our priority, the Canadian mission in Afghanistan including the situation concerning prisoners.

Since that time, I have been regularly informed on the various issues, as I should be.

At your invitation, I will give a summary of our policy and how it applies to the transfer to Afghan authorities of prisoners captured during military operations. I will gladly answer your questions at the end.

First, I want to remind the committee that Canada is in Afghanistan to help the Afghans rebuild their country and to make it a stable, democratic and autonomous society. We are there along with over 60 other states and international organizations, at the request of the Afghan government in a mission headed by NATO, pursuant to a UN mandate.

Canada's objective is to promote six specific priorities in keeping with the Afghanistan Compact, a five-year agreement that was ratified by the international community and the Afghanistan government in early 2006.

[English]

As you know, the Canadian government publishes quarterly reports on our engagement in Afghanistan. The sixth of these quarterly reports will be released this week, and I invite members and all Canadians to consult these documents. They will see that considerable progress has been achieved in a number of key areas, thanks to the dedication, courage, and professionalism of our soldiers, diplomats, and public servants.

[Translation]

In addressing the issue of the transfer of prisoners by Canada to Afghan authorities, I feel that I must begin by reminding you of the nature of the work being done by our Canadian civilian and military representatives who are deployed in Afghanistan. These individuals work day after day in a country that is dealing with a very dangerous armed insurrection and pursuing the goals of the Canadian mission with professionalism and a dedication that we should all be extremely proud of.

As I said before the House of Commons last week, "they are the glory of their generation, as were the heroes of Vimy, Dieppe and so many other theatres of war where Canadians fought to defend our values and our freedoms. These men and women are also putting their lives in danger to secure a better future for a country that is trying to ward off the threat of totalitarianism, sectarianism and extremism".

• (1650)

[English]

I would like to remind those who are fixated on the well-being of individuals who are suspected of being our enemies in this conflict that our men and women often put their own lives at risk in trying to treat these people as fairly and humanely as possible.

I would invite members to ponder again what Mr. David Mulroney told this committee:

We had no doubt that the detainees captured by the Canadian Forces posed a real threat to Afghans, and more than that, in some cases had Canadian blood on their hands.

[Translation]

With regard specifically to the transfer of Taliban prisoners, it's important to remember that they were first transferred to the Afghan authorities under an agreement reached between the Canadian and Afghan governments in December 2005.

As you all know, over two and a half years ago, we reached a supplementary arrangement with Afghanistan to replace that inadequate agreement on the transfer of prisoners that we had inherited from the previous government.

Since the beginning of our commitment, Canada has always insisted to the Afghan authorities on the need to treat prisoners according to international law. I myself raised the issue of the importance of respecting human rights during my meetings with President Karzaï and with the Afghan Minister of Foreign Affairs, Mr. Spanta.

Can we, however, assume responsibility for everything that happens in Afghan prisons, between Afghans? Obviously not.

The mission that we accepted—our government and the government that preceded us—is not full and permanent oversight of the judicial and prison systems in Afghanistan. I would state however that although there had been nothing before, our government is now investing in development programs in terms of policing, and the legal and correctional systems, in order to improve the Afghan government's capacity in those areas.

The supplemental arrangement that our government put in place has allowed the implementation of an oversight and follow-up mechanism that ensures protection of the rights of prisoners transferred by Canada and it is considered a model to follow.

This arrangement states that Canadian representatives will have unrestricted access to those prisoners, as my colleague, the Minister of National Defence, Mr. MacKay, mentioned.

This has enabled us to conduct nearly 200 visits, since the implementation of our new agreement, to verify that prisoners who had been transferred were treated in accordance with our values and principles and international law.

If, during those visits, Canadian officials hear of allegations of mistreatment, Canada immediately alerts the International Committee of the Red Cross and the Afghan Independent Human Rights Commission, in keeping with their mandate, and raises the issue with highest Afghan authorities to ensure a due diligence investigation.



[English]

Let us remember what Linda Garwood-Filbert, a 28-year veteran of Corrections Canada, who conducted nearly 50 visits, many of them unannounced, to Afghan prisons, said: "I personally never saw any signs of physical abuse or torture."

Have allegations of torture been made? Of course, and we should not be surprised by this, if we read any al-Qaeda manual, and particularly the one that was discovered by British police in a raid of an al-Qaeda member's home and which was produced earlier this year at a terrorist bombing trial in New York. In chapter 18 of the document, the first two recommendations given to al-Qaeda prisoners are, and I'm quoting from the text, (1) "At the beginning of the trial, once more the brothers must insist on proving that torture was inflicted on them by State Security (investigators) before the judge", and (2) "Complain to the court of mistreatment while in prison".

Mr. Chairman, if I were asked to choose between the testimony of a Corrections Canada official and an al-Qaeda tactic, I would pick Corrections Canada ten times out of ten.

Not only do we monitor and follow up with Taliban prisoners we captured because our men and women were posed with an immediate threat, but we've also put in place capacity-building programs to help improve conditions for all prisoners. We are providing training and mentoring to Afghan correctional officers and senior management. Since 2006 we have committed \$7.7 million towards correction reform projects in Afghanistan.

During my visit to Afghanistan with Minister Day in March of this year, we saw first-hand Sarposa prison and a training centre for the Afghan National Police and we witnessed concrete achievements. We announced then a contribution of \$21 million to strengthen the rule of law with a focus on policing.

In conclusion, Mr. Chairman and colleagues, to those who strive mightily to find fault with the actions of the men and women who are defending freedom, justice, and security in the most dangerous place in the world, I would like to say, nobody could do better. I remind this committee that all they hope for in return is the encouragement and respect of their fellow Canadians.

Thank you.

• (1655)

**The Chair:** Thank you, Minister.

Thank you all.

We had indicated at the beginning of the meeting, without knowing how long the bells were going to take, that we were going to stop this portion of the meeting at 5 o'clock to deal with some committee business from 5 to 5:15. There will be bells at 5:15 again, so we only have 20 minutes left to do all of what we need to do. I want you to keep that in mind, but I'm going to have Mr. Dosanjh open the questioning, because we have four minutes to go before 5 o'clock.

Mr. Dosanjh, the floor is yours.

**Hon. Ujjal Dosanjh (Vancouver South, Lib.):** Thank you.

First of all, it is not the actions of our men and women on the ground that are in question, it's the actions of this government or their omissions that are in question.

Secondly, when the minister says he will pick a particular testimony, perhaps he could pick the statement of General Natynczyk today and the braided electrical wire that was found when the transfers were stopped. I just want to bring ourselves to ground here rather than engaging in rhetoric.

The question I have is to the Minister of Defence. Whether it's the UN, the U.S. State Department, our own human rights Canada reports, Afghan Independent Human Rights Commission, Human Rights Watch, Amnesty International, we have a compelling body of evidence that there has been a substantial risk of torture when we transfer detainees to Afghan jails. Sir, you have been saying that there is not a scintilla of evidence of detainee torture. You've said that repeatedly and the Prime Minister in fact also said that.

I have a question for you in terms of our international obligations. This is not about people on the ground, not the military, not the men and women. It is about civilian responsibility. Civilian leadership has a responsibility. When you knew there was a compelling body of evidence and you were in denial, you continued to allow the transfer of Canadian detainees to Afghan authorities at substantial risk of torture.

Sir, I think you stand indicted in the public domain and in the court of public opinion of turning a blind eye, of being wilfully blind. Ignorance of facts is no defence. You don't need actual knowledge of torture; you need the circumstantial evidence in the international court. So I ask you, sir, to step down and relieve yourself of your responsibility, and answer the question whether or not you put our men and women at risk by allowing the transfers to continue at potential risk of torture?

**The Chair:** Mr. Minister.

**Hon. Peter MacKay:** Thank you, Mr. Chair.

Let me begin by saying that we, the government, have never denied that there were concerns regarding the circumstances of prisons and prisoners in Afghanistan. Those were general concerns that we shared with other countries, based on, of course, information that we received from a number of sources, including some of those that Mr. Dosanjh has listed—that is, international bodies, other countries, certainly our men and women in the field, from the Department of Foreign Affairs, and our military personnel. So from our initial transfer arrangement, we went about receiving that information, making decisions about how we would improve upon the failings that were there, left and inherited by our government.

We had a transfer arrangement that was inadequate, clearly, because it didn't allow for sufficient access—that is, Canadian officials being able to go into prisons to follow up. So as Minister of National Defence... As other ministers have previously stated, we acted. We acted upon the advice and the information that was being received from a number of sources, including our own, and we were also, as has been noted, reporting. The Department of Foreign Affairs reports regularly with annual human rights reports. So we were aware, painfully aware, of the fact that conditions in Afghan detention facilities needed to be improved, generally, broadly.

On this subject matter of specific allegations—and I know my honourable friend wants to blur this issue and try to suggest somehow that I've denied that there were concerns over the general conditions within prisons—when the specific allegations arose concerning detainees for whom we were responsible, we acted. There were decisions made by commanders in the field to stop transfers.

• (1700)

**Hon. Ujjal Dosanjh:** Sir, you don't need specific allegations, you need circumstantial evidence.

**The Chair:** Mr. Dosanjh—

**Hon. Ujjal Dosanjh:** There's abundant circumstantial evidence. Why did you not act, sir? Where is the law that you point to that you require specific allegations to act on in the international arena?

**The Chair:** I'm going to have to intervene, Mr. Dosanjh. From now on, all questions will have to be put to the chair and I will recognize the speaker. And I'm asking the people who control the microphones not to turn them on until I have recognized that person.

We have come to the point in the day where we said we were going to suspend this part of this meeting and move on to committee business. I'm going to leave what we do in the hands of the committee. Do we want to continue in this vein for the next 15 minutes?

**Mr. Paul Dewar:** Yes.

**The Chair:** Is everybody all right with that?

Mr. Dosanjh, you have five minutes left.

**Hon. Peter MacKay:** Mr. Chair, could I just finish my response from before I was interrupted?

**The Chair:** Yes. The floor is yours, Mr. Minister, but there are five minutes left in this session.

**Hon. Peter MacKay:** Mr. Chair, as all members know—and I would expect Mr. Dosanjh, as a former premier and a former cabinet minister, would know—we receive information from numerous sources, including, of course, reporting sources on the ground, but also our deputy ministers, our assistant deputy ministers, and in the case of a national defence minister, from military leadership. That information is presented to us with a mind for making decisions, making policy, making determinations, assessments of program options, and considerations for final decisions. So just to be clear, this information flows up through various government departments and government officials to a minister for decision.

We receive that advice, advice that has been synthesized, advice that is often drawn from various other sources and then presented to

ministers for action. So we see the mission, in this case, through the prism of our senior diplomats and our military leadership, and we act upon that information. That is the way the process has always worked.

In so doing, some of the information that we've heard presented before this committee came from e-mails that were sent in. Again, I expect that members who have served in cabinet posts would know that departments, and even ministers' inboxes, receive thousands upon thousands of e-mails, which are then, as I said, synthesized, processed, and brought forward for decision.

In conclusion, we fully expect to receive the type of advice and information needed to make informed decisions on the ground. I take responsibility as a cabinet minister for those decisions, but they are drawn from various sources within departments, including independent reports that are made available into the Department of Foreign Affairs, for example. I'm sure members would agree that it's the responsible thing to do: to glean information from those various sources before deciding what action should follow.

**The Chair:** Thank you, sir.

There are four minutes left.

• (1705)

**Hon. Ujjal Dosanjh:** I'll just ask this: Sir, you said that you need specific allegations. International law is very clear. You need circumstantial evidence; you don't need actual knowledge of any specific allegations or actual knowledge of torture. There was substantial knowledge of torture in Afghan jails. Every kid on the ground knew that. All the reports, national or international, knew that. They said that.

Sir, you continue to transfer prisoners to torture in the name of Canada. It is important that you understand, you don't need specific allegations.

You say, sir, that the board of inquiry to investigate treatment of individuals is sufficient. You say the Military Police Complaints Commission is sufficient.

First of all, you've thwarted the Military Police Complaints Commission by obstruction of justice. That's not sufficient. It's a very narrow inquiry. The first inquiry is very narrow. You have frustrated the work of this committee by not providing proper, uncensored disclosure, my friend.

Ultimately, would you agree to look into the fact that you allowed our prisoners to be sent to a potential risk of torture in the face of a compelling body of knowledge about torture, and that that requires a public inquiry to clear the air, restore Canada's reputation in the world, and protect our men and women on the ground?

**The Chair:** Mr. Dosanjh, I'm just going to remind you and other members of the committee that I want you to address your questions through me, and not directly to the witnesses.

Sir, you have a chance to respond.

**Hon. Peter MacKay:** Thank you, Mr. Chair.

I will respond to these outrageous allegations that I, or any minister of the government, would knowingly participate or collude in sending anyone off to torture. That is an outrageous, false, inflammatory, and insulting allegation from a fellow minister, from somebody who has served in government and should know better, someone who's also, I might add, a member of the bar, a fellow lawyer, who knows that you act on evidence that's presented to you.

Let me just respond to some of these outrageous allegations.

Referencing the fact that I have personally withheld documents, interfered, or intimidated witnesses is, again, completely without basis, completely without proof. That has been the exercise here, just to throw as much dirt in the direction of the government as possible.

The Military Police Complaints Commission is an arm's-length organization. The chair of that commission made the decision to suspend its hearings. It went to the Federal Court to challenge the fact that the government had been cooperating with it within its mandate. The mandate of that Military Police Complaints Commission was upheld and affirmed by the Federal Court. Again I note, it is an arm's-length body.

With respect to documents, I addressed that earlier. Those documents are vetted by lawyers within government, arm's length from political interference. They're vetted for the purposes specifically of ensuring that we don't disclose information that would endanger the lives of soldiers, that would interfere with operations, that would endanger information we had received from other governments or agencies that do so specifically on the understanding that it will be kept close and not shared.

Those are just a number of the inconsistencies and false allegations presented by the member.

**The Chair:** Thank you.

That's it for this ten-minute session. We will now go to the Bloc.  
[*Translation*]

**Ms. Francine Lalonde (La Pointe-de-l'Île, BQ):** I will be sharing my time with Mr. Bachand.

Ministers, you both expressed your good will. However, personally speaking, I feel that ministers had and have the responsibility for knowing—not simply receiving information—and becoming informed.

We have asked questions in the House of Commons repeatedly. I have done so. And with regard to this unsatisfactory arrangement, that you mentioned, in 2006 and until April 30, 2007, I obtained answers that the arrangement was satisfactory. The Honourable Minister O'Connor will recognize his role. He gave that answer, as Mr. MacKay did. Even the Prime Minister on April 30, 2007, said that the arrangement was satisfactory.

Did you, you and the people around you, see the report by the Afghanistan Independent Human Rights Commission? The commission conducted a study on 398 prisoners who were tortured and said

that 57 of them came from Kandahar. Do you acknowledge that you had the responsibility to know?

• (1710)

[*English*]

**The Chair:** Go ahead, Mr. O'Connor.

**Hon. Gordon O'Connor:** When I was Minister of Defence, as I said in my opening comments, each day that I was in my office—which is literally every day—I was briefed on operations and briefed on intelligence. When we had detainees, I was told how many we had, what state or condition they were in, whether they were ready for transfer, etc. I stayed up on all the information I could about Afghanistan.

We talk about the 2005 arrangement, which I believe was signed in December 2005. We took over government on February 6, 2006. We inherited this transfer agreement, and it took us a while to determine what could be improved, if it could be improved. We compared it with other agreements. For quite a while, if you recall, I said in Parliament that the Red Cross would inform us of what was going on.

Eventually the Red Cross, after 10 or 11 months, said that wasn't so, and I apologized. But I advised Parliament on the basis of the information I received at the time. I didn't make it up. I don't have a separate system of intelligence out of my own office; I have to take what my officials tell me.

Once we discovered that the Red Cross was not advising us of the condition of the detainees, we also looked at the Afghanistan Independent Human Rights Commission. They said that they were doing the job but they were rather fragile. Looking at the Red Cross situation and the human rights situation, we decided that there needed to be an upgrading of this agreement, and it happened late in my mandate. The new agreement came in, the 2007 agreement, whereby we had direct access to the prisons.

**Hon. Peter MacKay:** Mr. Chair, I have a short comment. Just to pick up on what Minister O'Connor has said, when this new arrangement came into place after a period of time, some in this committee publicly have said that nothing was going on. I think it has been called a black hole, which is completely untrue. Let me just describe for you what you've already heard from Colleen Swords, who was a senior member at the Department of Foreign Affairs, a public servant.

In early 2006, the Department of Foreign Affairs, as Minister O'Connor has just noted, became aware that the International Committee of the Red Cross had concerns with respect to notification of transfers. Action was taken based on that advice. By October, the Department of Foreign Affairs had commissioned a report from Correctional Service of Canada about capacity, so there were prison visits happening. Canadian officials from Correctional Service of Canada had deployed into the prisons to take a look at what had to happen.

So we were not standing still; we were taking action. By February 2007, the Government of Canada had a number of experts on the ground looking at how to increase the capabilities and capacity of Afghan officials. Mentoring was underway. Correctional Service of Canada offered the training and the mentoring of the police officials and prison officials.

In February 2007 also, an exchange of letters happened, a partnership between the Government of Canada and the Afghanistan Independent Human Rights Commission. That was being negotiated and concluded in that year as well. It called for a notification when we transferred prisoners within the prison system.

By April of that year, following a *Globe and Mail* story, Canadian officials were involved in a number of the meetings with Afghan officials and the Afghanistan Independent Human Rights Commission. All of this activity led to and culminated with the signing of the new transfer arrangement. There was much activity by many officials and much success in improving the transfer arrangement, which gave greater access to Canadian officials inside their prison system.

**The Chair:** Thank you, Minister.

Madame Lalonde.

[*Translation*]

**Ms. Francine Lalonde:** Were you aware, yes or no, of this study by the Afghanistan Independent Human Rights Commission on torture in detention centres from 2005 to 2007?

• (1715)

[*English*]

**The Chair:** Go ahead.

**Hon. Peter MacKay:** Mr. Chair, I was aware of a number of reports that spoke generally of the conditions inside the Afghan prisons. What I had been most interested in and most involved in is the allegations that involved Canadian-transferred detainees. Let's not forget that this is the primary focus of our responsibility. We're all seized with and concerned with the conditions of prisons everywhere, but in Afghanistan our primary responsibility was for detainees we had taken in the field and then turned over. The hundreds of allegations of torture that may exist in other reports are of great concern to us, but our primary focus and responsibility is for Taliban prisoners we had turned over to Afghan authorities. That was where our responsibility lay.

**The Chair:** Mr. Bachand, you have three minutes.

[*Translation*]

**Mr. Claude Bachand:** Mr. Chair, first, I want to say that I am not satisfied with the way the committee is operating. We have a lot of questions to ask, and the ministers will be leaving us shortly.

Also I invite my journalist friends in the room to come and give us their questions, which I will then put later to the ministers. I hope that the ministers will be able to respond through you, because we don't have the time to do it here, as you can see.

Ms. Lalonde was questioning you on your responsibility to know; I would like to question you about your responsibility as a minister. You haven't talked about that. The Minister of National Defence has only talked about "we need to rely on" our document, "we need to work", "we have the duty to".

Mr. Chair, when I say "we", I'm speaking inclusively by including all government representatives. What about the responsibility of these three ministers as ministers, Mr. Chair?

However, they sometimes decide to intimidate witnesses. I would ask the Minister of Foreign Affairs to listen carefully to what Mr. Shawn Barber said to Mr. Colvin:

The Government of Canada does not share the opinion of the legislative clerk on the application of legislation to parliamentary work and we are relying on you in your capacity as a public servant to comply with the interpretation of the Government of Canada.

There is worse:

If the committee members express grounds for concern, those grounds should be provided to the government's legal counsel.

[*English*]

**The Chair:** Mr. Bachand, I apologize.

[*Translation*]

**Mr. Claude Bachand:** Fine, I will ask the journalists to re-transmit my message.

[*English*]

**The Chair:** The bells are ringing.

Is there unanimous consent to continue?

The meeting is adjourned.







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