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# Standing Committee on Public Safety and National Security

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**Thursday, April 30, 2009**

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**Chair**

**Mr. Garry Breitkreuz**

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## Standing Committee on Public Safety and National Security

Thursday, April 30, 2009

• (0905)

[English]

**The Vice-Chair (Mr. Mark Holland (Ajax—Pickering, Lib.)):** I will call to order the 18th meeting of the Standing Committee on Public Safety and National Security. The chair of course is normally the honourable and venerable Mr. Breitzkreuz. The chair is not here today, so as vice-chair I will be filling in in that role.

Today we have just one witness appearing before our committee, Mr. Peschard.

[Translation]

Thank you for coming here to talk to us about the issues addressed in the Iacobucci and O'Connor reports.

[English]

I will give the witness the opportunity to speak for 10 minutes, and then we'll take questions and answers. That will go until 10 a.m. If there's a need to go slightly longer, we will, at which time we will be moving in camera to deal with future business.

At this point, Mr. Peschard.

[Translation]

**Mr. Dominique Peschard (President, Ligue des droits et libertés):** My name is Dominique Peschard, and I'm the President of the Ligue des droits et libertés, the Human Rights League. Before introducing you to the league, allow me to convey counsel Denis Barrette's regrets for being unable to appear with me today, as he had learned of this meeting's postponement too late and was unable to reschedule in court.

The League is a human rights advocacy and defence organization founded in 1963 and dedicated to defending all human rights under the Universal Declaration of Human Rights. The League spoke out publicly and quickly following the September 11 attacks to denounce anti-terrorist measures that failed to include the principles of fundamental justice, all in the name of fighting the war against terrorism, and that were based on the belief that freedom must be sacrificed in return for greater security. However, the O'Connor and Iacobucci reports show that on the contrary, the security of Canadians is threatened when these principles are set aside.

The case of Maher Arar is the story of an innocent man, beaten down by the respective security apparatus of Canada, the United States, and Syria. This story demonstrates what happens when a society abandons the safeguards of its justice system, built on compliance of fundamental rights, in the name of security.

In specific terms, the O'Connor report reveals the following: an RCMP inquiry that describes Mr. Arar with inaccurate, or blatantly erroneous facts, and on no sound basis, describes him as an Islamic extremist with ties to Al Qaeda; unrestricted intelligence exchange with American authorities who do not even comply with RCMP rules; voluntary ignorance of the torture suffered by Mr. Arar when he was detained in Syria; "accepting and exploiting information acquired through torture"; and lastly, obstructive behaviour on the part of police authorities to prevent Mr. Arar from returning to Canada and allowing leaks that served to discredit Mr. Arar in public opinion, and to justify police action in his regard.

Unfortunately, the case of Maher Arar is not an isolated one. The Iacobucci Internal Inquiry revealed that these same practices used by security services contributed to the detention and torture of Mr. Almalki, Mr. Abou-Elmaati and Mr. Nureddin.

Today, two years after the publication of the Arar report, a fifth Canadian has experienced the same fate. Abousfian Abdelrazik, is rotting away in Sudan, and the Government of Canada is putting up roadblocks to his repatriation despite the fact that he has been exonerated of suspicions by the RCMP and CSIS. Mr. Abousfian's situation proves that the remedial measures put forth by Justice O'Connor are still pending.

The inquiry into the facts surrounding Maher Arar's deportation revealed that 24 agencies or federal government departments were involved in matters of national security. Municipal, and provincial police services, as well as provincial intelligence services are also likely to have collaborated with other agencies or government police services, or even been involved in joint investigations. In fact, Project A-O Canada involved various Canadian and U.S. agencies, including the FBI, and probably the CIA. We have learned that 247 agreements on intelligence sharing were concluded between Canada and other countries.

Since September 11<sup>th</sup>, security measures throughout the world, coupled with technological developments, have triggered an accumulation and sharing of intelligence on citizens, at a dizzying rate. Ongoing sharing of intelligence between various domestic agencies and foreign agencies facilitates the integration of information in different databases located in different states. For example, intelligence provided by the RCMP can be found in one of the largest U.S. databases, the Treasury Enforcement Communication System. This database is a super database because it combines data contained in at least 19 other databases, which taken individually, hold an impressive amount of information. This complex process could have a direct result of generating erroneous information that could trigger a domino effect, multiply the amount of damage and number of victims, thereby leaving these victims bereft of any real recourse.

For people who are no more than victims of a mistake, the damage suffered can be clearly identified: the inclusion of innocent people on blacklists, loss of employment, denial of citizenship, immigrant or refugee status, restricted movement, indefinite detention, or deportation to a country where detention, mistreatment, or torture awaits.

What happens to the principles we deem essential in a democratic society: accountability, correction of erroneous personal information, the right to compensation in cases of damage to reputation, the right to privacy, individual physical and psychological integrity, protection against torture, cruel, inhuman and degrading treatment, fundamental freedoms, the right to equality, and prohibition of illegal profiling?

To prevent future breaches of rights, and to protect Canadians, the O'Connor Commission proposed a series of measures concerning police training, police practices as well as a mechanism for complaints and surveillance of activities relating to national security.

In his first report, Justice O'Connor put forth 23 recommendations. Two of these recommendations are of particular significance. Firstly, the RCMP's practices and agreements on intelligence sharing must be subject to an independent review entity. Secondly, information should never be conveyed to a country where there stands a credible risk of the use of torture.

Justice O'Connor's second report highlighted glaring flaws in the surveillance mechanisms of many agencies involved in national security. Some agencies, such as the Commission for Public Complaints Against the RCMP have limited powers and means—commissioners have already stated this publicly before this very committee—other agencies such as the Border Services Agency have no surveillance mechanism. In any case, a great number of surveillance agencies would not have a broad enough vision required to assess the practices of police services and agencies that work in an integrated fashion.

To address the situation, the League, following the example of other rights advocacy groups, recommended to the O'Connor Commission that one single surveillance agency be empowered to monitor all national security activities, and that it be given broad investigative powers. Justice O'Connor proposed a similar organization with a different structure, but with the same objectives.

In summary, the commissioner recommends replacing the current Commission for Public Complaints Against the RCMP with an independent review organization with strengthened powers, to be renamed the Independent Complaints and National Security Review Agency for the RCMP, which would also be responsible for looking into the national security activities of the Canada Border Services Agency.

The current mandate of the surveillance arm of CSIS should be widened so that more complaints can be received, and the review of the activities of various departments and agencies involved in intelligence activities and national security can be stepped up. These entities include the Communications Security Establishment Canada, Citizenship and Immigration Canada, Transport Canada, the Financial Transactions and Reports Analysis Centre of Canada and the Department of Foreign Affairs and International Trade.

Lastly, the commissioner recommended to the government that a new mechanism, to be called the Integrated National Security Review Coordinating Committee, be established to provide a centralized intake mechanism for complaints regarding the national security activities of federal entities and to report on accountability issues relating to practices and trends in the area of national security in Canada, including the effects of those practices and trends on human rights and freedoms.

This new mechanism must not become an empty shell, and the appropriate financial resources must be allocated to it. Its annual budget would be subject to parliamentary review prior to approval. In the opinion of the League, it is unacceptable that government institutions dedicated to protecting human rights are barely able to fulfill their mandate because of a lack of funding. This type of situation undermines the public's confidence in people's ability to exercise these fundamental rights, and in the proper functioning of government institutions.

Of course, significant change in State surveillance and investigative methods must be coupled with changes in culture, customs, and with a genuine respect for fundamental rights, especially, but not exclusively, within the RCMP. Nonetheless, these changes in mentality must be part and parcel of long-term changes, and can only be effected when the State sends a clear and unequivocal message to its constituents.

In the face of an astounding increase in State control, surveillance and investigative powers, an appropriate and effective review mechanism must be developed. This is the indispensable condition, as well as the price to pay for keeping our society free and democratic. Following a thorough and rigorous review of the matter, at both the national and international levels, Justice O'Connor recommended the creation of a new review mechanism similar to existing models in other democratic countries such as Belgium, Norway and Sweden.

• (0910)

It is high time to implement all of these recommendations.

We hope this committee will make a number of recommendations to the government. Since the Iacobucci Commission does not have the mandate to do this, we would also like to see this committee put forward a recommendation to the government to extend a formal apology to Mr. Almalki, Mr. Abou-Elmaati Mr. Nureddin, as well as compensation. We also recommend that the government take all the necessary measures so that erroneous information on these people and their families, which is still on file within Canadian and foreign services, be corrected, and that a formal complaint be filed against the governments of Syria and Egypt for the mistreatment of these Canadian citizens.

Thank you.

• (0915)

**The Vice-Chair (Mr. Mark Holland):** Thank you very much, Mr. Peschard.

As usual, the official opposition will have the first questions.

Mr. Oliphant, you have seven minutes,. Please go ahead.

[*English*]

**Mr. Robert Oliphant (Don Valley West, Lib.):** Thank you very much for being with us today, and thank you for your testimony.

There are three areas I want to get to, although I may not get to all of them. One has to do with labelling or profiling, the second has to do with security certificates, and the last area is general oversight.

In particular, I want to talk about and get more comment from you in raising the case of Ahmad Elmaati, because he's a constituent of mine. He is not unusual in my riding; he's an average person in my riding. Yet in the process, we can see from the Iacobucci report that the profiling or labelling of Mr. Elmaati, and particularly the way it was communicated to the Egyptians, probably led to his longer incarceration, further torturing, further deprivation, and more restrictions on his human and civil rights.

I just wanted you to pull out a little bit more about not only the labelling, which I think we can all understand is wrong, but the communication of that labelling in regard to CSIS, which came up clearly in Mr. Iacobucci's report, and how that has infringed upon his human rights.

**Mr. Dominique Peschard:** Well, what's particularly—

[*Translation*]

**Mr. Robert Oliphant:** You may speak in French if you wish.

**Mr. Dominique Peschard:** All right.

What is cause for concern in the specific case of Abou-Elmaati is the information revealed: Mr. Elmaati was not only mis-labelled, which contributed to his initial detention and torture, but the confession extracted through torture was then used by intelligence services for the purposes of obtaining a search warrant here in Canada. It was denied, or ignored that Mr. Abou-Elmaati had probably confessed under torture, and the results of these searches were then used to pass on other information to Syria.

Also cause of concern is the fact that a CSIS official, who testified before the Iacobucci Commission, and therefore after the release of the O'Connor report, admitted that from time to time, CSIS used characterizations that were then sent to foreign services, with a view

to extracting an answer that would corroborate or disprove a characterization. In other words, this practice was akin to a fishing expedition, whereby an unverified characterization is sent to a foreign service so that it can corroborate or disprove the characterization.

Obviously, as Justice Iacobucci pointed out, this practice is likely to lead to other inhumane treatments, and torture of persons by the people who are holding them. This is a very worrisome practice, one that violates fundamental rights, and poses a serious problem, in the opinion of the League. This brings into play Canada's position on torture and the practices of security services.

Canada has been criticized by organizations such as the UN Committee on Human Rights and the UN Committee Against Torture for having not taken a clear and unequivocal position on the issue of torture. The cases of Mr. Arar, Mr. Abou-Elmaati and Mr. Almalki are examples, but there are also the current case of Mr. Abousfian Abdelrazik who has suffered the same fate. There's also the case of Mr. Omar Khadr. Last week's court ruling pointed to the complicity of Canadian government agents in this whole affair.

In my opinion, the entire issue of torture has yet to be resolved, not just from a political perspective, but from the standpoint of security agencies as well.

[*English*]

**Mr. Robert Oliphant:** We continue to await a ministerial directive condemning and refusing to allow CSIS to do this kind of communication. The ministerial directive is not there. The minister was here, and he said that he is waiting for the results of the Air India inquiry, which we simply don't understand, because that just keeps delaying and increasing the possibility of this happening again.

Has your organization requested such a ministerial directive? Are you in favour of that? Is that part of your work?

• (0920)

[*Translation*]

**Mr. Dominique Peschard:** Yes. We have repeatedly asked the Government of Canada to take an unequivocal stand on torture and to clearly state that under no circumstances will it send anyone to a country where they could be tortured, and that under no circumstances will our Canadian agents serve as accomplices to torture. And yet, we are still waiting for the government's response.

[*English*]

**Mr. Robert Oliphant:** Absolutely, it seems there are two issues for me. One is the proactive impetus by this government to actually issue a ministerial directive to make sure that this doesn't happen. The second thing is the oversight for when it does unfortunately happen. We are increasingly finding, as both O'Connor and Iacobucci have said, that it's a porous net.

The oversight functions are not coordinated. Large parts of our intelligence and security operations are not subject to any civilian oversight. This continues for us, on this side of the house, to be a strong concern. Again, we seem to be waiting for the minister to have Justice Major's report, but it seems that the recommendations are very clear in the reports from Iacobucci and O'Connor about oversight. We're having border incidents about which people don't know who to complain to when they're obviously subject to profiling, when members of their family are subject to profiling, and when members of the family are subject to travel restrictions.

It is an ongoing concern. I'm looking for your agreement on the proactive work on profiling, ministerial directive, and the reactive work on oversight.

[Translation]

**The Vice-Chair (Mr. Mark Holland):** You have 30 seconds remaining to answer.

**Mr. Dominique Peschard:** Indeed, it is clear that the current surveillance mechanisms are inadequate. The surveillance mechanism of the RCMP is certainly inadequate. The CSIS mechanism, considered as the best, did not stop the service from treating Mr. Abou-Elmaati, Nureddin and Almalki the way they did. In our opinion, most of the surveillance mechanisms need to be completely overhauled.

**The Vice-Chair (Mr. Mark Holland):** Thank you very much.

Mr. Ménard, you have seven minutes.

**Mr. Serge Ménard (Marc-Aurèle-Fortin, BQ):** Thank you, Mr. Peschard.

As you know, we are currently taking stock of what has changed since Justices O'Connor and Iacobucci conducted their inquiries. On hearing you speak, I get the impression that aside the compensation given to Mr. Arar and the apology extended to him, next to nothing has been done to implement these recommendations. We've been told or been given a list of what still needs to be done.

What positive results have you been able to gauge? Aside from the compensation paid to Mr. Arar and the formal apology made to him, which recommendations were implemented?

**Mr. Dominique Peschard:** To my knowledge, for now, RCMP officials have merely reassured us that they have taken to account and will implement a certain number of recommendations contained in the O'Connor report. However, there is no mechanism to guarantee that this is indeed the case. There is no proof that changes have been made.

That is why, in the absence of an effective, arm's length surveillance mechanism, we will not be confident at all that security services are respecting the fundamental rights entrenched in the Charter, that Canadian citizens are adequately safeguarded against what happened to Mr. Arar, Almalki, Mr. Nureddin and Mr. Abou-Elmaati and what is happening right now to Mr. Abousfian Abdelrazik.

**Mr. Serge Ménard:** Therefore, there is a danger that the same mistakes made in connection with the cases examined by the two commissions of inquiry could be made again.

● (0925)

**Mr. Dominique Peschard:** In our opinion, yes.

It's worrisome to note that the security services don't seem to be in much of a rush to acknowledge their mistakes. For example, let's review their conduct in the case of Mr. Arar. Justice O'Connor gave a full account of the whole flight process, the purpose of which was to hurt his chances of repatriation and also to promote the story that he was a dangerous Al Qaeda agent once he was back in Canada. Instead, they should have faced the facts, acknowledged their mistakes, and repaired the damage.

In all the cases to date, the security services have tended to try and justify their actions. And that's particularly worrisome. It only further highlights the need for an oversight mechanism.

**Mr. Serge Ménard:** I'm sure you're aware that the minister appeared before us on April 2. He informed us of his decision to delay the implementation of an oversight mechanism until the Air India affair inquiry ends.

What do you think of the reason the minister gave? Do you think it's dangerous to wait this long before instituting oversight and control mechanisms?

**Mr. Dominique Peschard:** I don't see the need to wait, especially since Justice O'Connor was the one mandated to present the most complete report that we'll get on the security services' actions, on the problems that these actions caused and on the way the services are run. In his second report, he suggests a review of how every service is run.

To my knowledge, that's not the Air India Commission's terms of reference. So, I don't see how the Commission would shed any more light on the intelligence and security services oversight requirements.

**Mr. Serge Ménard:** Thank you.

**Mr. Robert Vincent (Shefford, BQ):** I'll pick up there.

According to the Ligue des droits et libertés that you represent, what are your thoughts about the rights and freedoms of the individuals in each of these cases? Were their rights upheld or were they tried and locked away before being heard in a court of law?

**Mr. Dominique Peschard:** You raise an important point. It strikes at the heart of the problem with running a security service, which is different from criminal law and where the police have to gather enough facts to potentially be able to go to trial. And the individual is aware of the charges. The accused can defend himself, and only admissible facts can be brought against him. So, there is a protection mechanism.

The big problem with intelligence and security is there may be an exchange of information which has implications for the individuals concerned, and which amount to a conviction under criminal law. The worse-case scenario is these individuals may be detained indefinitely, or even tortured as in the cases we are reviewing, without any guarantee there will be a procedure through which they will be able to defend themselves.

And that is why it is imperative, given the implications of such a situation, that there be a solid and credible oversight mechanism to prevent security intelligence activities from depriving persons of their rights.

**Mr. Robert Vincent:** You referred to arm's-length organizations with which complaints may be filed against the RCMP and CSIS. In your opinion, what organization would be the best fit, without being associated in any way with the other two organizations? It is understood that the government will establish this new organization.

Do you believe that it will be an independent organization or that it is going to be more of the same?

**The Vice-Chair (Mr. Mark Holland):** Unfortunately, you only have 30 seconds left.

**Mr. Dominique Peschard:** I think Justice O'Connor proposed a mechanism to ensure effective oversight. And if there is a willingness to implement this mechanism by giving the resources, mandate and powers necessary to the Commission which oversees the infamous Integrated National Security Review Coordinating Committee, well then I think it will be possible to provide oversight. It's a matter of political will and wherewithal. So we'll have to call on the government to provide this.

• (0930)

[English]

**The Vice-Chair (Mr. Mark Holland):** Thank you.

I'll turn now to Ms. Mathysen with the NDP, for seven minutes.

**Ms. Irene Mathysen (London—Fanshawe, NDP):** Thank you very much for being here and providing this perspective.

I have a couple of questions. We in this committee have heard from a number of presenters, and I wonder about your opinion in regard to Justice O'Connor's second report. He indicated in that report that there should be an increased role for parliamentarians in the review of national security measures. Do you see that as being a positive step? Would increasing the role of parliamentarians and reviewing activities of the departments and agencies actually facilitate a better protection of human rights?

[Translation]

**Mr. Dominique Peschard:** Yes, I think that these are key considerations. I believe that elected representatives, who represent the public, have a role to play when it comes to reviewing the way security agencies are run. Indeed, we need to make sure these agencies' actions comply with the principles that we want to see implemented in this country. The oversight committee will need to be accountable to Parliament.

[English]

**Ms. Irene Mathysen:** I have been looking at the recommendations in regard to Mr. Arar. Recommendation 17 directs the Government of Canada to develop specific policies and training to address situations of Canadians detained in countries where there is that risk of torture, where we know human rights are often violated. Would training for consular officials posted abroad in regard to recognizing signs of torture or learning questioning techniques be effective? Would you support that recommendation?

[Translation]

**Mr. Dominique Peschard:** Yes, I would. In my opinion, you need to train consulate staff in this area, but as far as the case at hand is concerned, these countries' practices were very well documented by international advocacy organizations. I think that it's got to do more with a willingness to acknowledge these practices and steer clear of them than having trouble getting to know the facts.

[English]

**Ms. Irene Mathysen:** Now I'd like to switch gears a little bit here. There's been a great deal of discussion about the fact that the current government and the previous government have to accept responsibility for what has happened to Canadian citizens abroad. And even now, if you look at the case of Mr. Khadr, it would seem there is this refusal to accept responsibility, inasmuch as the current government insists he not be repatriated. I'm wondering if this raises alarm bells with you, the fact that there is still this intransigent attitude in our government.

[Translation]

**Mr. Dominique Peschard:** Yes, it does. It really boggles the mind that Mr. Khadr is still in Guantanamo when our legal obligation, as demonstrated by the court last week, is to repatriate Mr. Khadr, since his basic rights have been violated and Canadian officials have been complicit in this violation.

As far as we're concerned, we're calling for Omar Khadr's repatriation. We're very concerned about the government's position to date in relation to Mr. Khadr.

• (0935)

[English]

**Ms. Irene Mathysen:** The argument is in regard to his status as a child soldier, and I wonder if you could comment. I've been quite disturbed by the facts in regard to the Ivory Coast and the children who were abducted in Sierra Leone and in other places. The world seemed quite prepared to understand that these are children and victims, but not Canada when it comes to its own citizens. I wonder if you have any comment on that.

[Translation]

**Mr. Dominique Peschard:** Yes, I do. The fact that when Mr. Khadr was captured he was a child, in other words a minor considered to be a child soldier, is one of the key points in this case. Those were the circumstances. And that determines the way we should look at him, as a victim to be rehabilitated and not as the guilty party.

In the past, moreover, Canada has played an active role in establishing international standards on child soldiers. So it's particularly disappointing to see what Canada's current position is with respect to Omar Khadr.

**The Vice-Chair (Mr. Mark Holland):** Thank you very much.

We'll now move on to Mr. McColeman, from the Conservative Party.

[English]

**Mr. Phil McColeman (Brant, CPC):** Thank you, sir, for coming here today and witnessing. This is a very important issue.

My first question would be this: do you believe there is a terrorism threat to Canada?

[Translation]

**Mr. Dominique Peschard:** Yes, I do. It is quite possible that a terrorist attack may be perpetrated against Canada. The possibility cannot be ruled out. We don't claim that terrorism does not exist, that it is not a threat, and that it is not a crime against humanity, on the contrary.

However, an increasing number of human rights advocacy organizations have taken a stand, whether it be the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Mr. Martin Scheinin, the International Commission of Jurists, or even Mr. Kofi Annan, when he was Secretary General. In their opinion, combating terrorism should not involve forsaking our democratic principles and freedoms. This fight must be waged within a system that is respectful of human rights.

By sidestepping the issue, we are not strengthening our security. On the contrary, we are merely compounding the climate of insecurity engendered by terrorism.

[English]

**Mr. Phil McColeman:** I don't think any of us would want to diminish anyone's human rights, but there is a balance here. This week, as you may or may not know, at a reception I attended on Parliament Hill, we had with us the victims of terrorism. As a new parliamentarian, I must say...the witness was one of the Air India victims who was speaking to parliamentarians, and parliamentarians of all political parties were in attendance.

You've stated in your remarks today that you feel the O'Connor report is the final word on a structure or a mechanism and that the forthcoming Air India report by Judge Major will add little or nothing to what Judge O'Connor has suggested. I would just make this comment and look for your reaction to it. Twenty-four years ago, the worst terrorism attack in this country happened to those individuals. Over the course of those 24 years, they have never received, in their terms, acceptable outcomes of their advocacy.

In my mind, it seems to me that not to wait for such an important report—if it were only to corroborate as a second opinion what Judge O'Connor has said—would be a strategic mistake. So I'm wondering how you can be so firm in your comment that the O'Connor report is the mechanism and there's little to be added by the Air India report that's forthcoming.

• (0940)

[Translation]

**Mr. Dominique Peschard:** To begin with, it was not at all my intention to minimize the Air India tragedy, quite the contrary. In my opinion light must be shed on this tragedy as well as on the operational shortcomings of our security system which, at the end of the day, allowed this tragedy to occur.

But the fact is that we are currently looking into situations in which Canadian citizens' rights were violated because of improper action on the part of the security services. Mr. O'Connor tackled this issue head on, in so far as it was possible to do so. Moreover, his report was made public two years ago. And yet, right when it was

published, the government promised to quickly implement its recommendations. So under the circumstances, I don't see why the Air India inquiry would now call into question these promises.

[English]

**Mr. Phil McColeman:** I'm wondering, further to that, then, how do you suggest or see the rights of victims?

[Translation]

**Mr. Dominique Peschard:** The victims have to be compensated. We're talking here about two kinds of victims: the victims of terrorist attacks as in the case of Air India, and the victims of actions taken by security agencies, as in the case of Mr. Arar, Mr. Almalki, Mr. Nureddin, Mr. Abou-Elmaati, and Mr. Abousfian.

All of this incidents constitute fundamental breaches of human rights and all of these individuals must be compensated for being wronged, and this wrongdoing must be addressed to the greatest extent possible. Obviously, nothing more can be done for the deceased, but at least something can be done in their memory and for the survivors and their families.

[English]

**Mr. Phil McColeman:** Along those lines again, I would like to know your views on what the correct balance would be with respect to our national security, which is what we are charged with looking at, and the respect for civil rights. What is the balance?

[Translation]

**Mr. Dominique Peschard:** We don't believe in the thesis that you strike a balance by heightening security and diminishing freedom, or vice versa. The best way of defending or protecting ourselves is to uphold the integrity of our legal and justice systems.

Experience has shown that negligent practices such as those engaged in in the case of the Arar and Iacobucci reports in no way make Canadians safer. On the contrary, they undermine police and intelligence services' credibility.

At the end of the day, it even does a disservice to our security services when such practices are permitted. And that's why we are insisting that something be done and why we are suggesting mechanisms to ensure that such practices are no longer engaged in.

[English]

**The Vice-Chair (Mr. Mark Holland):** Thanks so much.

[Translation]

We'll start our second round.

Mr. Kania, you have five minutes.

[English]

**Mr. Andrew Kania (Brampton West, Lib.):** Thank you for coming today.

Are you in a position to comment on whether the 23 recommendations have or have not been implemented?

[Translation]

**Mr. Dominique Peschard:** Absolutely not. The only thing we can say is that while a statement has been made to the effect that 22 of the 24 recommendations have been implemented, there are no tangible outcomes attesting to this.



[English]

**Mr. Andrew Kania:** Have you seen any evidence on the ground, so to speak, in terms of the way that behaviour has changed, to convince you that these recommendations have been complied with?

• (0945)

[Translation]

**Mr. Dominique Peschard:** No, I have not.

[English]

**Mr. Andrew Kania:** Are you aware of any individuals whose rights have been violated since these reports, because these recommendations have very likely not been implemented?

[Translation]

**Mr. Dominique Peschard:** Not with respect to Mr. Arar, Mr. Almalki, Mr. Nureddin and Mr. Abou-Elmaati, no, but Mr. Abousfian Abdelrazik's case has recently come to light.

For individuals in this situation, it is very difficult for them to publicly argue their rights. Mr. Almalki, Mr. Nureddin and Mr. Abou-Elmaati waited some time before doing so. So it's not at all impossible that someone will go public with other skeletons in other closets at some particular point, but I can't predict this.

[English]

**Mr. Andrew Kania:** In my view, as a result of the recommendations not having been implemented, we have the following comments coming from Mr. Geoffrey O'Brien of CSIS, and I'd like your comments on them. When he was here, he said they could not say they would not use information obtained from torture, that they only use information obtained from torture if lives are at stake. And then he commented that "it happens rarely".

My two-part question would be, are you aware of any other cases where torture has been used, and what do you think about the fact that, given the failure by the Conservative government to implement the recommendations, you have somebody saying they do use torture, although rarely?

[Translation]

**Mr. Dominique Peschard:** Clearly Mr. O'Brien's statement flies in the face of Mr. O'Connor's recommendations, but it also clearly violates Canada's obligations under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which prohibits countries not only from torturing individuals, but also from collaborating in any manner whatsoever in the torture of such individuals.

It is very surprising that over two years after the release of the O'Connor report, a fairly senior official at CSIS would make such a statement. It is not at all reassuring.

[English]

**Mr. Andrew Kania:** To follow that, given the leadership of the government on this issue, I'd like you to comment on the Abdelrazik case and the fact that, as you're aware, they are refusing to allow him to come home despite the fact that UN resolution 1267, which imposes the terrorist blackout list, actually has a specific exception to allow people to come home.

My concern—and I'd like to know whether you share it—is that there's far too much discretion when a minister, and the Conservative government in this case, refuses to allow a Canadian citizen to return home. I'd like you to comment on that.

[Translation]

**Mr. Dominique Peschard:** In our opinion, the Abousfian Abdelrazik case shows that the concerns raised by the O'Connor and Iacobucci inquiries have not been resolved. There is a great deal of confusion surrounding this case. At one point, the government said that if he had an airplane ticket, it would provide the documents. Then, when he had a ticket, the documents were not provided. There are always ad hoc reasons why Mr. Abousfian cannot return, despite the fact it is his fundamental right to return to this country.

Therefore, once again, it is as though there are second-class Canadian citizens who do not have the same rights as others and whose internationally-recognized and Charter rights are not respected.

We therefore ask the government to move quickly to put an end to this abuse of Mr. Abousfian Abdelrazik's rights and to bring him home to Canada.

**The Vice-Chair (Mr. Mark Holland):** Thank you very much.

Mr. Norlock, you have five minutes please.

[English]

**Mr. Rick Norlock (Northumberland—Quinte West, CPC):** Thank you very much for coming this morning. You raise some very good and very important issues.

I'd like to carry on with a little bit of background on some of the issues that were just raised.

Concerning the Arar incident and these other three gentlemen, did not all those cases commence on or prior to 2005?

• (0950)

[Translation]

**Mr. Dominique Peschard:** Yes, the arrests—

[English]

**Mr. Rick Norlock:** And which political party was in charge of the federal government at that time in Canada?

[Translation]

**Mr. Dominique Peschard:** Everyone obviously knows the answer. It was the Liberal Party that was in power.

[English]

**Mr. Rick Norlock:** Yes. So when it comes to a country's foreign policy, would it not be correct to say that government should, because it is their responsibility, have control of their foreign policy?

[Translation]

**Mr. Dominique Peschard:** First of all, in our opinion, the circumstances around this case combined with the fact that Mr. Abdelrazik is a non-resolved case, if I can put it that way, means that in our opinion this is a non-partisan issue. The issue of fundamental rights and respect of Canadian citizens' fundamental rights should be an issue—

[English]

**Mr. Rick Norlock:** Excuse me, sir, you and I would have to agree, quite frankly, that human rights should be non-partisan, but some people like, for political purposes, to make insinuations about a Canadian political party.

I have said at this committee and other committees, and say so in public, that I do not believe that any current political party in Canada—and when I talk about political parties, I'm talking about those that have seats in this House of Commons—would purposefully and overtly injure someone's human rights or, in other words, go counter to generally accepted human rights. It's the very fine details that we may disagree on, from time to time, of the manner in which we get there.

I want it clearly understood that I don't like to make political points when it comes to human rights, but I think we need to understand some of the motivations that may be less than pure.

You mentioned the United Nations Commission on Human Rights. I think you said something to the effect that it condemned Canada's handling of a certain situation. Succinctly, again, what did they condemn that Canada did, just so I understand?

**Mr. Dominique Peschard:** First of all, to be more precise, it's the Committee on Human Rights. Canada comes under examination, as do all other countries, with respect to its respective treaty, the international civil convention, and I can quote—

**Mr. Rick Norlock:** Thank you, but I think it's important to know, when this committee made that decision or came to the decision whether it was a unanimous decision of the whole committee or it was a select group in the committee. I think it's important to understand that, because then I have a follow-up question.

Was the whole committee unanimous? Sometimes in the United Nations something will go through, but not every member of that committee votes in favour of it. Are you aware of that?

**Mr. Dominique Peschard:** Yes, I am. That's why I'm saying it's not the UN Commission on Human Rights, which is made up of 47 countries; it is the Committee on Human Rights, which is a committee of independent experts who examine the countries.

**Mr. Rick Norlock:** Which experts from which countries are in it?

**Mr. Dominique Peschard:** I don't have the list with me.

**Mr. Rick Norlock:** So the experts could come from one of the member countries.

**Mr. Dominique Peschard:** They definitely could.

**Mr. Rick Norlock:** I have one minute. If I said some of the member countries were Algeria, Azerbaijan, Bangladesh, Burkina Faso, Cameroon, China, Cuba, Egypt, and Sri Lanka, those human rights experts could come from those countries?

**Mr. Dominique Peschard:** They could come from any country in the world belonging to the United Nations. They're not political representatives of countries as they are in the commission. There are legal experts.

**Mr. Rick Norlock:** Who decides which experts from which countries come before them to make these kinds of assertions?

**The Vice-Chair (Mr. Mark Holland):** You have time for about a ten-second response.

**Mr. Dominique Peschard:** Who chooses the experts? I don't know.

[Translation]

**The Vice-Chair (Mr. Mark Holland):** And now, for the final question, you have five minutes please, Mr. Ménard.

• (0955)

**Mr. Serge Ménard:** Thank you.

Mr. Peschard, if we hope to end up with a unanimous report, at some point we will have to agree on certain basic facts.

This is one of the basic facts in the evidence that we have studied: people only realized several years later that their rights had been violated by Canadian authorities, and generally speaking without the government's knowledge. We in the Bloc Québécois can readily state that we have never had any ambition to be in power in Ottawa and that we have never been in power in the past.

The fundamental idea we wish to address here is the following: following the study of these events by commissions of inquiry, the latter have made recommendations to ensure that these events would never take place again, and more generally that they would never take place again without the minister and the government being aware of them.

I believe that some people will turn to you, to your human rights and freedoms organization, to find out how they can have reinstated certain rights that they feel were violated.

I will give you an example: someone comes to you and says that they have been wrongly perceived to be a terrorist. This man has just learned that he can no longer travel to Canada by plane, that it would be dangerous for him to go to the United States or even to another country. The RCMP tells him that they believe he is a terrorist, that he has ties to terrorists and that they would like to hire him as a double-agent. He answers that he is not a terrorist, that he doesn't know any terrorists, and that he doesn't wish to become a double-agent. He says that he has a wife and children, and that even if he did know any terrorists, this would be dangerous work that he wants no part of. He explains that that when he went to Pakistan, he only visited family and that, even if he had met any terrorists, he wouldn't have known it. He would now very much like to benefit from the same rights as all Canadians.

What organization could he turn to to rectify this situation? Moreover, if the recommendations of Justices O'Connor and Iacobucci were implemented, would there be any organizations he could turn to to expose the fact that he was unfairly treated because he was falsely labelled a terrorist, when in fact he is not a terrorist and has no desire at all to be one?

**Mr. Dominique Peschard:** Right now, we believe that this man has nowhere to turn to. It's exactly one of the things that has to be resolved.

In our opinion, the oversight mechanism must be empowered to receive this type of complaint and take corrective action. Indeed, for us to head in this direction, the oversight mechanism must be credible so that those who find themselves in this situation are confident that this recourse is available to them.

**Mr. Serge Ménard:** There is another case that you yourself raised. It is the case of Abousfian Abdelrazik. I'm talking about the person who's currently being detained in Sudan. According to what we know, the Sudanese believe that he is a terrorist. After having tortured him, they finally convinced themselves that he was not a terrorist. Canadian authorities, following an investigation, are also convinced that he is not one. Yet, the minister has said that his name is on the UN list of terrorists. Nobody knows why.

However, this should not prevent him from returning to Canada. The minister told us that he cannot return for reasons of national security. We are unaware of these reasons of national security. Since the minister does not want to disclose the reasons, and things have been swept under the rug before, everyone will just assume that there is a reasonable explanation, like the fact that he is a foreign-born Canadian citizen, which consequently, would turn this issue into one of racism.

If we had a parliamentary oversight committee, something that has been suggested for years and was promised by Paul Martin, before he was elected Prime Minister, would there be a way for parliamentarians, bound to confidentiality rules, to check whether

or not the minister is guilty of racism in this case, or if indeed there are good reasons relating to national security?

● (1000)

**Mr. Dominique Peschard:** As I said—

**The Vice-Chair (Mr. Mark Holland):** We only have enough time for a brief answer, please.

**Mr. Dominique Peschard:** As I stated in my previous remark, Parliament has an important role to play in making sure that Canadians' rights are respected. However, to inform Canadians, there must be an oversight mechanism that can gather and analyze the required information.

**The Vice-Chair (Mr. Mark Holland):** Thank you very much and thank you for taking the time to be here today.

[English]

At this point in time we're going in camera to deal with future business for the committee.

Thank you again, Mr. Peschard.

[Proceedings continue in camera]

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