



House of Commons
CANADA

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

SDIR • NUMBER 029 • 3rd SESSION • 40th PARLIAMENT

EVIDENCE

Tuesday, November 2, 2010

—
Chair

Mr. Scott Reid

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

Tuesday, November 2, 2010

• (1305)

[Translation]

The Chair (Mr. Scott Reid (Lanark—Frontenac—Lennox and Addington, CPC)): We now begin the 29th meeting of the Subcommittee on International Human Rights of the Standing Committee on Foreign Affairs and International Development. Today is November 2, 2010.

[English]

In a moment we will begin a video conference with William Browder, who is the founder and chief executive officer of Hermitage Capital Management, a firm doing business in, among other places, Russia. He will be talking about the situation of Sergei Magnitsky.

Before we begin that, I want to draw to your attention the fact that the clerk either has circulated or will shortly circulate a series of motions that I would like us to deal with at the end of this meeting, after we've heard from Mr. Browder. Those motions deal with the committee's budget. You'll all have a chance to look at them during the committee meeting.

I'm not inviting discussion; at the end of the meeting, if there is a desire for discussion, we'll have to hold off on approval until next time. If there's no desire for discussion, we can simply approve them quickly.

I see Mr. Bagnell's hand. Go ahead, Mr. Bagnell.

Hon. Larry Bagnell (Yukon, Lib.): I don't know if it's a point of order, but Professor Cotler wanted me to make a statement that he regrets he's unable to be present for the testimony of William Browder. He's familiar with the compelling case and tragic death of Sergei Magnitsky and regards William Browder's testimony as an important looking glass into the culture of corruption and impunity in today's Russia. Thank you.

Mr. Cotler is very ill in Montreal today.

The Chair: All right. Thank you. That's unfortunate.

We have the preliminaries out of the way.

Mr. Browder, welcome to our committee. Thank you for being here.

Perhaps we should simply turn things directly over to you. Normally we give our witnesses about 10 minutes, more or less, to make opening statements. We're not very strict in policing that time.

After that, we then commence questions. Depending on how much time we have available to us within the hour we've been allocated, we either have one round of questions or two rounds of somewhat briefer questions. We'll play that by ear.

Might I ask you to fill us in on the case of Sergei Magnitsky?

Mr. William Browder (Founder and Chief Executive Officer, Hermitage Capital Management): Thank you very much, honourable members of the subcommittee on human rights. I'm very grateful for the opportunity to speak to you and to speak about Sergei Magnitsky.

I'd like to tell the story about Sergei, and to tell the story about Sergei, let me just tell you a few bits and pieces about myself, how I got to know Sergei, and how this whole story came about.

I'm William Browder. I'm the chief executive officer of a firm called Hermitage Capital Management, which at one time was the largest foreign portfolio investor in Russia. I went out there in 1996 and started investing. What I discovered early on in the process was that many of the companies I was investing in were involved in very significant amounts of corruption. As a result of that, I became a shareholder rights and anti-corruption activist in the Russian Federation.

Over the course of years, my welcome in the Russian Federation became more and more tenuous, and in November 2005 I was expelled from the country, declared a threat to national security, and never allowed to return. I thought that was bad at the time, but I had no idea how bad things were going to get. Eighteen months after my expulsion, my offices in Moscow were raided by 25 members of the Moscow Interior Ministry—the police department—and 25 officers from the Interior Ministry raided the offices of my law firm, Firestone Duncan, as well.

In the process of raiding the office, the officers took away all the certificates, stamps, seals, and articles of association for the companies through which we made our investments in Russia. Three months after the seizure of all of these documents, which were the official documents of our companies, we discovered that we no longer owned our companies. Our companies had been fraudulently re-registered out of our name and into the name of somebody named Viktor Markelov, a man who had been convicted of murder. The only way the re-registration could have taken place was with the documents that had been seized by the police when they raided our offices in June of 2007.

Because of this unpleasant circumstance, we ended up going out and hiring a number of lawyers, including a young man named Sergei Magnitsky. He was a 36-year-old tax lawyer from the Firestone Duncan law firm. Sergei, together with a number of other lawyers, conducted a very detailed investigation into what was going on with the theft of our companies. Sergei discovered that in addition to the companies being stolen, the documents that had been seized by the police had been used to create \$1 billion of fake liabilities for our companies.

Those documents were then presented in a Russian court. Fake defence lawyers whom we had never hired showed up in court and pleaded guilty to \$1 billion of fake liabilities. Those fake liabilities were then used by the police to go around to all of our banks to try to find all the assets that we had in Russia. Fortunately, by the time they tried to pull off this scam, all our assets were no longer in the country, because we suspected something like this might happen.

We thought that was the ugly end to the story, but Sergei kept on investigating, and he discovered something most profoundly disturbing, which was that the \$1 billion of fake liabilities and the companies that they stole from us were then presented at the tax office in Moscow. They went to the tax office and said that when these companies paid \$230 million in taxes a year ago, it was a mistake. They said the companies shouldn't have paid those taxes because there was \$1 billion in losses. They applied for a tax refund, the largest refund in Russian history, and the refund was granted in one day, on Christmas Eve of 2007. On Christmas Eve of 2007, the largest refund in Russian tax history was granted with no questions asked.

• (1310)

Sergei, along with the other lawyers we had hired, helped us prepare a criminal complaint, which we filed with every law enforcement agency in Russia. Following that criminal complaint, which was filed in July of 2008, we expected that there would be a massive swoop and an investigation and conviction of the police officers and other officials who were involved in this crime. However, instead of doing an investigation into the police officers involved in the crime, the police opened an investigation—criminal cases—against all seven of our lawyers from four different law firms. I felt very disturbed by this and very upset with the possibility that something could happen to our lawyers. I asked them to leave the country and come to the United Kingdom, where I could provide them sanctuary and shelter from any danger they might encounter in Russia.

Six of the seven lawyers reluctantly agreed to my proposal. It was a very difficult conversation to have. Sergei Magnitsky said, “No. I’ve not broken any laws. I’m not leaving the country. Moreover, I’m a patriot, and it upsets me that \$230 million was stolen from my country with the involvement of police.”

In October 2008 Sergei Magnitsky testified against the police officers who had raided the office and seized the documents. Literally one month later, the same officers—actually, three officers who reported to one of the officers he testified against—came to his home at eight o'clock in the morning, arrested him in front of his wife and two children, and put him in pretrial detention in Moscow. They arrested him and then tried to get him to withdraw his

testimony against the police officers. In order to do that, they tortured him.

They put him in a cell with eight inmates and four beds and left the lights on 24 hours a day to deprive him of sleep. After a few weeks of this, they moved him to a cell with no windowpanes in the Moscow winter, in December. The cold air flowed right in, and they were basically living in below-zero conditions with nothing to keep themselves warm. They all developed various upper respiratory infections. They then moved him to a cell with no toilet. There was just a hole in the floor. The sewage would bubble up through the floor.

Every time they moved him from cell to cell to cell, they would lose his belongings. One of his most precious belongings was a metal coil that you could plug into the wall and use to boil water. The reason it was so important was that the Moscow prisons don't have water that you can drink safely, because the water contains bacteria and other parasites.

After six months of sleep deprivation, freezing temperatures, unsanitary conditions, and bacteria-ridden water, Sergei became sick. He lost 48 pounds and started having severe abdominal pains. He went to the prison hospital and was diagnosed with pancreatitis complicated by gallstones. They prescribed an operation on August 2, 2009.

Shortly before his operation was to happen, he was again confronted with the possibility of withdrawing his testimony and pleading guilty to a number of falsified crimes in order to justify his detention. Throughout this process, no matter what kind of physical pain he was suffering, he refused to perjure himself and sacrifice his integrity.

One week before his operation was due, the investigator abruptly moved him out of the prison he was in, which had a medical facility, to a maximum security prison called Butyrka, which is one of the toughest prisons in Russia. Most importantly, Butyrka doesn't have any medical facilities. At Butyrka his health spectacularly broke down. He went into constant agonizing and unbearable pain. There were accounts that his cellmate would bang on the door for hours trying to get medical attention. When a doctor would come, the doctor would say things like, “You should have been treated before you got arrested.”

The pain became worse and worse. Finally things went over the edge. On November 16, 2009, he went into critical condition. It was only then that they moved him back to a prison that had a hospital. They moved him to Matrosskaya Tishina prison, but at Matrosskaya Tishina they didn't treat him. They put him into a straitjacket, put him into an isolation cell, and left him for one hour and 18 minutes, until he died.

He was 37 years old. He left a wife and two children.

Everybody has their own way of dealing with adversity, and the reason we know all this is that Sergei's way of dealing with adversity was to write it all down in the form of complaints about misuse of the justice system.

•(1315)

Sergei wrote, in his time in detention, 450 complaints in the 358 days that he was detained. We have an absolutely perfect record of all the torture and abuse he was subjected to in retaliation for his exposing the corruption and criminality of police officers in Russia.

The day he died, we released one of the most heartbreaking of these documents, which was a 40-page handwritten letter he wrote to the general prosecutor that describes some of the things I've just told you about. We released it to a number of newspapers, including *Novaya Gazeta* newspaper, which is one of the last remaining independent newspapers in Russia. *Novaya Gazeta* published his account in this 40-page letter in its entirety, calling it "Sergei's Prison Diaries".

This document truly upset everybody who read it in a way that was unexpected for Russia. People in Russia have very thick skin and are often very cynical. But what this document showed was that the gulags that people thought were long gone were still alive and well in Russia.

Moreover, what this document showed and what Sergei's death showed was that the social contract that people thought existed in Russia no longer existed. People thought the social contract in Russia was that if you kept your head out of politics, human rights, and other sensitive matters, you could enjoy the fruits of an authoritarian regime. What Sergei's death, torture, and horrifying conditions proved was that even a young tax lawyer who had nothing to do with any of those controversial professions, if he happened to be working for the wrong client and happened to be a patriot and stood up against corruption, could have his entire life turned upside down, be taken out of his normal life, in which he buys his Starbucks coffee in the morning, and be sent to the worst possible dungeon in Russia to die.

After this *Novaya Gazeta* article appeared, the President of Russia called for an investigation into Sergei's death. Unfortunately, the people who were responsible for his death seem to have more power than the President of Russia. After he died, first of all, they never allowed any type of autopsy; they never allowed any kind of independent observer of the state's autopsy; they changed the version of his death from rupture of his abdominal membrane to heart failure and said he died of natural causes. They then held public hearings in which they said that Sergei had never complained about his health, in spite of these 450 documented complaints about his health and many other things.

We're now almost a year after his death and not a single person has been charged. Moreover, the people Sergei testified against have all been promoted—every single one of them has been promoted.

What it shows is that there's huge corruption in Russia, there are terrible and fatal consequences to the corruption in Russia, and there's total impunity for the people who have done this.

But we've decided that we're not going to let Sergei's death go unpunished. I'm going around the world, which is why I'm testifying in front of your committee today, to tell this story and to try to find justice outside of Russia.

One of the most important things we've done so far is that I gave similar testimony in front of the human rights subcommittee of the U.S. Congress and I asked them to impose visa sanctions and financial sanctions on the individuals concerning whom we have documentary evidence of the torture and death of Sergei Magnitsky. As a result of that testimony and that request, we now have in the United States two bills—one in the Senate and one in the Congress—called the Justice for Sergei Magnitsky Act of 2010. In the Senate it's sponsored by Senator Cardin, who's a Democrat and head of the Helsinki Commission, and by Senator McCain, who's a Republican. In the House of Representatives it's sponsored by Jim McGovern from Massachusetts, who's a Democrat, and Darrell Issa, who's a Republican. This is a bipartisan, bicameral bill, which has been submitted to both houses and will be debated and hopefully passed.

I'm calling on you today to help me with this cause and show the Russians that even though it's far away, and even though perhaps these people don't have much to do with the United States or Canada, this type of action won't be tolerated.

•(1320)

Sergei Magnitsky is no different from thousands of other people like him, with one exception, which is that we have all this documentary evidence and we have me ready to speak about it. I'm hoping that we can use this as a symbol for all the other people who are suffering in silence and be able to do something about it.

Thank you very much for taking the time and hearing my story.

The Chair: Thank you very much, Mr. Browder.

We're just at that cusp where we could have two very short rounds of questions or one longer round. I think I'm leaning towards one longer round, simply because the tendency is for us to run out because of people running over their time a little bit.

So with 35 minutes for four parties, we'll start by saying nine minutes per question and answer session.

Mr. Silva, you begin.

Mr. Mario Silva (Davenport, Lib.): Thank you very much, Mr. Chair.

I want to thank Mr. Browder for his testimony. It was quite compelling. I think it's something we need to share with all Canadians so that they'll be aware of what is in fact happening in Russia.

I have heard of this case, and many other cases, and frankly, I'm mystified as to why people still want to do business in Russia, other than that they have large natural resources. Given all the frightening things that have happened—not just with Mr. Magnitsky, but I've also heard of many other similar cases, though not to the same extent—it still seems like a frightening place, the wild west of doing business, where anybody who opposes the oligarchy gets himself into trouble.

Maybe you can comment on that as well, but what I really wanted you to focus on in our brief time, limited to nine minutes, is the bill that's before the U.S. Congress and the Senate, the Justice for Sergei Magnitsky Act of 2010, and talk about whether it could be incorporated, in similar language, into the one that Professor Cotler is putting forward. I think Professor Cotler put it quite succinctly when he said that this is a looking glass into the culture of corruption and impunity in today's Russia.

Could you please comment on that?

• (1325)

Mr. William Browder: Absolutely.

First of all, I agree with your point entirely about the business climate in Russia, and with any chance I have I'm telling people that it's essentially Russian roulette; that there might be six chambers that are empty, but with the seventh one you'll blow your head off, if you've crossed the wrong people or you have something they want.

So I would encourage everybody I come across not to invest in Russia, because of the level of danger—not just financial danger, but physical danger—which is untenable for any civilized person to be involved with. People try to cover it up and people try to make it as if there aren't these problems.

And most people don't talk about it; people are afraid to talk about it. I've been threatened on eight different occasions with death for doing what I'm doing, but it's important that I talk about it. The fact that other people don't talk about it doesn't mean it doesn't exist.

Coming to the specifics of the law, I have spoken with Professor Cotler and have asked him whether we can take what's being done in the U.S. and modify it, based on whatever the circumstances are of your legislative process, and put in place something that is the same or similar, which makes this point: they may choose not to prosecute evil wrongdoers in Russia who have done this thing, but there's no reason why we should grant them the luxury of entering our civilized countries, spending their money in our countries.

The way the Justice for Sergei Magnitsky Act of 2010 works is very simply that it will be a law that will require the State Department to come up with a list of the people for whom they believe there's evidence of involvement in the fraud that Sergei Magnitsky exposed and in his false arrest, his torture, and his death.

Because there's so much documentary evidence in this case—we have the signatures of the doctors who refused him medical treatment, the signature of the investigator who moved him before his operation, the signature of other officials who were involved in raiding the offices—these lists are pretty easy to create. Once the list has been created, then it would be a requirement for the Secretary of State to make a list of these people and for their visas to be permanently cancelled, and all of their relatives and dependants would also have their visas cancelled. So you can't be a torturer and murderer and send your kid to boarding school in Canada or the United States in an ideal world.

Mr. Mario Silva: Could you provide the list of those individuals?

Mr. William Browder: We can provide our list, which Senator Cardin put together. I'd be delighted to do that, and I can provide it to the chairman as soon as we're done with this meeting. We have that

list. We're also happy to provide all the back-up and documentary evidence that supports the list.

Mr. Mario Silva: In terms of doing business in Russia, I know that sometimes different countries issue what they call a “travel alert” for people who are going on vacations, but is there any type of alert system for people doing business in Russia that various western countries have put out?

Unfortunately, it's not a unique case. There is certainly a lot of documentation, but there are hundreds of other cases that don't have the same type of documentation but have in fact been reported in the media. Are countries issuing an advisory to people to be careful and be warned before going to do business in Russia?

• (1330)

Mr. William Browder: I've never heard of that, but it's a beautiful idea. Maybe Canada should be the first country. I quite like it.

What I find is that everybody is timid about saying the king is not wearing any clothes. Most countries are pretty timid about it, particularly as you get closer to Russia, where Russia has weapons of natural gas or other types of leverage that they can apply. People are more and more cautious and scared, not wanting to upset the Russian Federation.

But I think it's a great idea. In fact, I think I will take that idea with me and run with it after this meeting. I quite like it.

Mr. Mario Silva: I want to know whether there has been a reaction at all from Russian officials as to what has happened in the U.S. with Senator Cardin's bill. I'm not sure whether the European Union has also had anything put forward by way of a motion in relation to this strategy.

Mr. William Browder: I should clarify that I've also had the same conversation with the head of the subcommittee on human rights of the European Parliament, Heidi Hautala, and she supports the idea of a resolution at the European Parliament. We're gathering support from different factions of the European Parliament. Hopefully by the end of the year we'll have a similar parliamentary resolution.

I was in Berlin about three weeks ago and met with the heads of each faction's subcommittee on human rights. They're going to hold hearings, hopefully in January, as we're doing right now, to discuss the idea of visa bans. We're also beginning the process of working with the British Parliament on the same thing.

I've been in touch with the Polish foreign minister, who has publicly stated that if other countries—and he was specifically referring to the U.S.—were to put in place visa bans, Poland would follow. The reason Poland is important is that it's a member of the Schengen region, which means that if the visas are taken away for these officials in Poland, they can no longer travel to any Schengen country, which includes all of Europe. We're working on a few other Schengen countries at the moment as well.

So this is a widespread activity that we're doing with many different countries. The idea is that we want to create essentially a domino effect whereby bad guys won't be able to travel. This scares the hell out of not just the bad guys who did this, but other bad guys, because if other bad guys see that this is a viable weapon against human rights abuses—and there are no weapons at the moment against human rights abuses.... Everybody makes condemnations but does nothing about it. This is the first time I've seen something really tangible that will affect the human rights abusers.

I should say one other thing, which is that all of the community of people who fight human rights abuses in Russia are hugely in favour of this, and they beg every foreign dignitary, every president, every congressman who visits Russia to put in place this type of thing. We have Lyudmila Alexeyeva, who is one of the most important human rights activists in Russia, head of the Helsinki Group in Russia, who met with the German President and asked for this and met with officials from the U.S. state department to ask for this.

This is something they are screaming for. They are screaming for its consequence, for the end of impunity. So if I can collect like-minded people around the world who want to do something to really touch human rights abuses, this is what it would be.

This is starting out with Sergei Magnitsky, but my intention is that this be not just a Sergei Magnitsky law but eventually become an amendment we can apply to other human rights abuse cases and to other countries, so that eventually people who abuse human rights are no longer able to travel and spend their money and would have to think twice before they start torturing people in jail.

The Chair: Thank you very much. Unfortunately, that uses up all the available time.

We'll move on now to Madame Deschamps.

[*Translation*]

Ms. Johanne Deschamps (Laurentides—Labelle, BQ): Thank you, Mr. Chair.

I'll speak to you in French, Mr. Browder.

• (1335)

[*English*]

Mr. William Browder: I don't hear anything yet.

If you're speaking French now, I hear English.

[*Translation*]

Ms. Johanne Deschamps: I would also like to thank you for your testimony. The situation you described is both worrisome and unbelievable. Despite all the facts you put in perspective, it is really astonishing that, with the first anniversary of Mr. Magnitsky's death approaching, nothing has still been done. What took place is, after all, quite disturbing.

Mr. Silva gave a good overview of questions we'd have following your presentation. You could perhaps tell us how Russian officials have reacted to your work in the U.S. I'm referring to the two bills that are currently before the U.S. House. Mr. Putin's entourage is probably beginning to worry or to react to the word you are spreading abroad. I am sure that, for that reason, all your actions,

which are not necessarily intended to avenge your colleague Sergei, but rather to clear his name, are being monitored very closely.

[*English*]

Mr. William Browder: Yes, you're right. They're very closely monitoring our activities, and the one way we can tell if we're making progress is how forceful their response is. In response to the law—the Justice for Sergei Magnitsky Act of 2010—the foreign ministry of Russia came out with a very strong statement that this is a very base act, that this is going back to the Cold War, that they're not happy with it at all, and various other types of things.

First, that says one thing: that the 60 officials who tortured and killed Magnitsky now have official support from the Russian government. That's the first thing it says to me.

The second thing it says to me is that we've touched a nerve. If it's become an official policy, it means that other people who do other bad things are truly worried about what the consequences of this will be. Of the 60 people on the list, the most senior person is a deputy prosecutor and a deputy interior minister, but if you have the foreign minister saying he's concerned, then obviously other people within the Russian government are very concerned.

On one hand, I'm happy to see that we've touched a nerve; on the other hand, I hope that a forceful reaction from Russia doesn't scare some of the European parliamentarians I'm talking to, because in Europe there is much more possibility of reaction in terms of trade, gas exports, and other things.

In terms of my own situation, the Russians will do everything possible to threaten me and discredit me. They will do everything they can think of to try to make this not happen. This is a very big stain on Russia's reputation.

My strategy is very simple. I'm hoping that sooner or later the stain on their reputation will become greater than the desire to protect the people who killed Sergei Magnitsky, and they will finally arrest them. Until then, I'm going to carry on doing this with you and with your colleagues in other parliaments in other countries, because this is the only way that we're ever going to make anything change.

[*Translation*]

Ms. Johanne Deschamps: Before your two bills were tabled before the American authorities, a letter was sent to the Secretary of State, Ms. Clinton. Your documents indicate that it was sent last April. Has Ms. Clinton responded to this letter, which calls for a suspension of visas for those Russian officials who were involved in Sergei's death?

[English]

Mr. William Browder: I've not had any direct contacts with her. What I do know is that a number of U.S. officials, including the President's national security adviser for Russia, Mike McFaul, along with Assistant Secretary of State Gordon, had been asked specifically about this in Moscow when they visited. The answers they've given have been I think deliberately not clear. They said they never disclose if somebody is or is not on a visa ban list and that they wouldn't disclose that here. Then they went on to say that the Magnitsky case is important for the administration.

So it's unclear what the official position is, and I imagine there is both a very strong desire not to upset the domestic audience in America by allowing torturers and murderers to come into America, but I'm sure that at the same time they don't want to offend their Russian counterparts. So it's a very difficult position for the administration to be in, but it's something that unfortunately you have to pick sides on ultimately. You can't sit in the middle of it, and I think that's the direction it's going in right now.

• (1340)

The Chair: Thank you very much.

Mr. Marston, please.

Mr. Wayne Marston (Hamilton East—Stoney Creek, NDP): Thank you, Mr. Chair.

Mr. Browder, welcome.

Given that this is a committee on human rights, one of the things that strikes me is that you named a number, 60 officials, a few moments ago. Who compiled the list of these 60 officials? Who was the one who determined that they made the so-called list?

Mr. William Browder: Just to give you a bit of history, I testified in front of the Helsinki Commission, which is a human rights commission inside the U.S. government, which was chaired by Senator Benjamin Cardin. I testified in June 2009, when Sergei was still alive and when he was incarcerated. I called on the Helsinki Commission for help in getting Sergei out of jail.

Senator Cardin, along with a number of other members of the Helsinki Commission, was very conscious of the whole story while Sergei was still alive. After Sergei tragically died on November 16, I then began discussions with the Helsinki Commission about what could be done. I came across, through one of my lawyers, a law called proclamation 7550 in the United States, which says that corrupt foreign officials can be banned from getting visas to come into the country. I presented that to them and they said this was interesting and could we present them with evidence of who these people were who did this to Sergei. So we provided a number of documents to the Helsinki Commission of people whose signatures were on pieces of paper denying medical treatment and people whose signatures were on paper authorizing the raids, etc. As a result of that, the Helsinki Commission vetted the information we provided them with and came up with this list.

I should point out that you're right, there are different standards of evidence for different types of offences in life. In a criminal case, there's the standard of guilt beyond a reasonable doubt. In a civil case, there's the standard of evidence in the balance of probabilities. But we're talking about visas here, which is not a right for anybody;

coming to anyone's country is a privilege. Here, what we're talking about is reliable and prima facie evidence that somebody has committed a crime. I think that's the standard the U.S. is putting into their Justice for Sergei Magnitsky Act. You're right to point out the issue of how these lists get compiled.

I should point out that the Justice for Sergei Magnitsky Act doesn't have a list. It has a standard by which the State Department has to operate. The list of 60 people is a list that Senator Cardin sent to Secretary of State Clinton, but there's no list attached to the law. The law says there's a definition and let's the government agencies decide based on evidence.

Mr. Wayne Marston: Thank you for your response.

When we listen to the evidence, to the testimony you've given in this particular case, and to what has happened to this individual, I don't believe there's a person around this table who wouldn't be gravely concerned about those kinds of abuses.

On the other side of this, I'm very concerned about lists being compiled—everything from the no-fly list here.... That's something that's being debated in our parliamentary circles: when a Canadian airplane happens to go to Cuba, it has to cross American airspace, and thus we have to give personal information. Of course, that's a side issue.

Again, you're talking about the standards of evidence and the presumption of innocence, but also about how a person should face their accuser directly and see the evidence against them.

I'm not one to defend Russia's business community or its government, for sure, and I don't doubt the veracity of what you're telling us. I'm just concerned about the kind of response to which a person doesn't have the option of responding.

The other side of it is guilt by association, such that family members of these individuals would be prohibited from travelling as well. It strikes me that we're not in control of what our fathers do, or whoever. That seems to me to be taking it a little bit far.

I am curious, though. You mentioned Prime Minister Gordon Brown and his commentary. Did the British government take any active steps beyond that concerning commentary?

• (1345)

Mr. William Browder: Yes. We're in deep dialogue right now with the crown prosecution service about crimes against humanity in the case of certain individuals who did this, so we're taking far greater steps than what we're talking about here. I can't go into too much detail about that for obvious reasons.

Let me just come back to one of the points you made—and I think it is an excellent point—about having a fair hearing. When I was discussing the Magnitsky law with people from the Cardin team, that concept you just brought up was very important. The law says that a list will be compiled, and the people on that list will be notified. They'll have an opportunity to debate and present...and to clear their name if for some reason they shouldn't have been on that list. So this is not an automatic thing where there's no opportunity for a response.

I think you're absolutely right. Having been victimized on the other side of this thing, one doesn't want some kind of arbitrary government procedure. At the same time, one wants to have something so that we don't let torturers and murderers into the country.

There's really nothing I can say to address the point about guilt by association. Everybody can take their own view on that, and your point is well taken.

Mr. Wayne Marston: Well, I certainly appreciate what you just said about being on the receiving side of a major injustice. So we're in an area of caution; that's all my point was.

This case is very troubling. It's easy to see why it has influenced lawmakers in various parts of the world. I'm sure this committee will give a thorough look at what you're proposing. I thank you.

Mr. William Browder: Thank you.

The Chair: Thank you as well.

We turn now to the Conservative questioners.

Mr. Sweet, I guess you'll be starting, and then Mr. Hiebert will follow.

Mr. David Sweet (Ancaster—Dundas—Flamborough—Westdale, CPC): Thank you, Mr. Chairman.

Thank you, Mr. Browder, for your testimony today and for championing this for Sergei.

I want to ask you about your business interests in Russia. Have they all been liquidated now? Do you have any interests left in Russia?

Mr. William Browder: I essentially have no business left in Russia. It's too dangerous a place for me to operate in. Given that I'm categorized as an enemy of the state, it's certainly not a hospitable business climate, for me anyway.

Mr. David Sweet: Yes, I assumed that, but I needed to get the answer to that.

The second thing is I would imagine that since you have been championing this cause, not only in remembrance of Sergei but to bring human rights justice to the situation as much as possible through the denying of travel to those responsible, you must have received threats by now.

Mr. William Browder: I have. Since about a couple of weeks before Sergei died until now, I or my colleagues have received eight very explicit threats of death or violence as a result of all this stuff. It's obviously very troubling.

But one thing I can say is that four days before he died, while he was incarcerated and in a much more dangerous situation than I'm in, Sergei provided testimony and more detailed statements about the crime and the people involved, even naming further names. If he was brave enough to do that from jail and he died as a result, it's my duty to him to not be scared, and to be brave, and to do what I'm doing right now.

As unpleasant as it is to get death threats, it's even more unpleasant to think about what happened to Sergei. I'm going to

continue to stand up for him, and his name, and the justice he deserves.

Mr. David Sweet: Thank you, Mr. Browder.

Have you reported these threats to the appropriate authorities, and could you tell the committee the nature of these threats?

• (1350)

Mr. William Browder: The threats came in the form of text messages and voice mail messages that originated from Russia. Before Sergei died, we received messages. Text messages came to one of our Russian lawyers in London that said, "What's worse? Prison or death?" Shortly thereafter, we got a message saying, "History tells us that anyone can be killed", quoting Don Michael Corleone of *The Godfather*.

I then received a voice mail message of someone being severely beaten, and then after Sergei died, we received several more of these messages, including one—I won't repeat the swear words that came in it—that said, "We're coming to get you", and then it was swear, swear, swear.

Since we all live in London, all these messages were reported to the SO15, which is the anti-terrorist unit of the Metropolitan Police, and a case file has been opened and a number of things are being done. Again I don't want to go into too much detail in a public forum, but it's something that they take seriously and that we take seriously. We're just doing the best we can under the unpleasant circumstances of having a rogue regime not happy with what we're doing.

Mr. David Sweet: I'm glad that you take it very seriously.

My last question has to do with Sergei Magnitsky's family. Do you know what the situation is now? I understand that he left two children and a wife. Could you tell us about that?

Mr. William Browder: We're in very close contact. There are basically four dependants. There are two children—two boys—a wife, and a mother whom he was supporting. We're in close contact with them, and we're also providing them financial support so that we can look after them in the way that Sergei would have wanted them to be looked after.

I have heartbreaking conversations on a regular basis with them, and I can't even begin to express.... Whatever pain I'm feeling is one ten-thousandth of the pain they're feeling. It's one thing to have somebody die. It's another thing to have somebody die young, and it's another thing entirely to have someone die, die young, and die from torture. I can't express how that can destroy anybody's psychology. It's a slow and horrible healing process that we're trying to do step by step with the family.

Mr. David Sweet: Thank you, Mr. Browder.

I want to turn the rest of my time over to my colleague, but I'd like to get this on the public record: have the family been threatened as well?

Mr. William Browder: I don't believe the family have been explicitly threatened, although they wouldn't tell me if they had; if they had been threatened, they would be scared to talk on the line.

Mr. David Sweet: Thank you.

Mr. Russ Hiebert (South Surrey—White Rock—Cloverdale, CPC): Thank you.

Your testimony, or at least the document that we have before us, indicates that the Moscow public oversight commission provided a report in December 2009. In it one of the commissioners indicated that she viewed this as a premeditated murder.

Further to that, it's noted that in November of 2009, Dmitry Medvedev had instigated an investigation, and that 20 senior prison officials had been fired. The deputy head of the federal penitentiary had been fired as well, and it was also linked to this Anatoli Mikhalkin.

It sounds as though a number of actions have occurred as a result of this investigation, formally or informally. My question to you is, where is justice at within the country? Has the investigation that was ordered by the Russian President actually presented its report? Are civil or criminal actions against the 60 people who have been identified taking place as we speak? What is the situation with that system?

Mr. William Browder: That's a good question. I'm glad you asked it. I'm particularly glad you brought up those 20 officials.

Shortly after Sergei died, they made a big deal about the fact that he died and fired 20 governors of different prisons around Russia. Of those 20 fired prison governors, 19 had nothing to do with any place that Sergei Magnitsky was held in detention, so there was no relationship between them and Sergei Magnitsky. The one who had been in charge of the prison where Sergei was held was reappointed deputy head of another prison several weeks later.

There have been no civil or criminal charges laid against any individual on this list of 60 people, and as I said before, a number of them, including the one who was most closely associated with his torture, have been promoted. It's now a year since this whole thing happened, and they've more or less said—informally, not formally, because they haven't concluded the investigation—that there is nobody who is going to be held responsible for the death of Sergei Magnitsky.

If you were to receive a visit from the Russian ambassador, he would say, "The investigation is ongoing, let it take its course", but what he won't tell you is that some of the people on the ongoing investigation team are also some of the accused. They are running the investigation of themselves.

• (1355)

Mr. Russ Hiebert: All right. So we can't expect justice to occur within the Russian justice system. Is there any downside to adopting the proposal that you have put forward banning visas for these individuals and their family members?

Mr. William Browder: Is there any downside? That's a good question.

The one thing I would say—and this is very important to say—is that Sergei Magnitsky is one of many, many who have suffered the same fate. He's the tip of an iceberg.

The only downside is if this is so specific that it can't be expanded in the future. It's not fair that one person gets it where eventually others can. But it's only possible to start with a specific...because if

we tried to do a bill for all people who did all terrible things, it would just be unmanageable.

So I would say the one thing we have to think about is making this something that can be applied to different situations, and not just in Russia but in other countries, so that it becomes a tactic for fighting human rights abuses as they come up. I think if that was Sergei's legacy, he would have done the world an enormous good. We need to start somewhere, but I do understand that a specific law for a specific person is only valuable if it can ultimately be expanded in the future.

The Chair: We're basically out of time.

It looks as though you had one more question you were about to ask, Mr. Hiebert. Why don't you take us—

Mr. Russ Hiebert: I will only if we have time.

I know you talked earlier about the burden of proof. That would be a challenge, it would seem, to the establishment of a regime in which individuals like this would be registered as terrorists in their own nations and put on a list such that they would be prevented from getting visas. How do you suggest that burden of proof be established when their own justice system won't hold them accountable?

Mr. William Browder: Their justice system won't hold them accountable, but let's say that I go to your Minister of Justice or ministry of justice and I provide the evidence that we provided to other people. If that evidence is sufficient based on rules of evidence, then I think that's a perfectly appropriate way.

It's just like how in Russia, if you can't get justice, you can go to the European Court of Human Rights outside of Russia for certain types of cases. This is a different type of process, but we're saying if you can't get justice inside of Russia, and you have prima facie evidence of torture and murder, and a law like this is passed, then there is somebody inside your interior ministry or ministry of justice who will then analyze the evidence and say, "Yes, this is compelling enough evidence that we can make this decision."

The Chair: Thank you very much, Mr. Hiebert.

Thank you as well, Mr. Browder.

Before I let you go, are there any last comments you wanted to make?

Mr. William Browder: I think we've really very nicely covered the story, and I have to say I'm impressed with the level of knowledge and thoughtfulness with which everybody has come into this meeting. This is obviously a well-prepared group.

I thank you for giving me this opportunity, and I hope we can do something together in this case. Thank you very much.

The Chair: Thank you for that compliment. Of course, if we're well prepared it's largely because we received the documentation you sent to us, which was circulated.

Speaking of documentation, I believe there is some follow-up documentation, so I would just encourage you and our clerk to be in contact with each other about the remaining documentation that was discussed. We'll make sure it gets circulated to all members of the committee.

I'm going to end that item, committee members, and we'll turn now to dealing with another matter. It's a budgetary matter, and to do this we probably should go in camera. So could I get someone to make a motion that we go in camera?

Mr. Mario Silva: I so move.

The Chair: Is everybody agreeable to that?

Some hon. members: Agreed.

[Proceedings continue in camera]

MAIL  POSTE

Canada Post Corporation / Société canadienne des postes

Postage paid

Port payé

Lettermail

Poste-lettre

**1782711
Ottawa**

If undelivered, return COVER ONLY to:
Publishing and Depository Services
Public Works and Government Services Canada
Ottawa, Ontario K1A 0S5

*En cas de non-livraison,
retourner cette COUVERTURE SEULEMENT à :*
Les Éditions et Services de dépôt
Travaux publics et Services gouvernementaux Canada
Ottawa (Ontario) K1A 0S5

Published under the authority of the Speaker of
the House of Commons

SPEAKER'S PERMISSION

Reproduction of the proceedings of the House of Commons and its Committees, in whole or in part and in any medium, is hereby permitted provided that the reproduction is accurate and is not presented as official. This permission does not extend to reproduction, distribution or use for commercial purpose of financial gain. Reproduction or use outside this permission or without authorization may be treated as copyright infringement in accordance with the *Copyright Act*. Authorization may be obtained on written application to the Office of the Speaker of the House of Commons.

Reproduction in accordance with this permission does not constitute publication under the authority of the House of Commons. The absolute privilege that applies to the proceedings of the House of Commons does not extend to these permitted reproductions. Where a reproduction includes briefs to a Committee of the House of Commons, authorization for reproduction may be required from the authors in accordance with the *Copyright Act*.

Nothing in this permission abrogates or derogates from the privileges, powers, immunities and rights of the House of Commons and its Committees. For greater certainty, this permission does not affect the prohibition against impeaching or questioning the proceedings of the House of Commons in courts or otherwise. The House of Commons retains the right and privilege to find users in contempt of Parliament if a reproduction or use is not in accordance with this permission.

Additional copies may be obtained from: Publishing and
Depository Services
Public Works and Government Services Canada
Ottawa, Ontario K1A 0S5
Telephone: 613-941-5995 or 1-800-635-7943
Fax: 613-954-5779 or 1-800-565-7757
publications@tpsgc-pwgsc.gc.ca
http://publications.gc.ca

Also available on the Parliament of Canada Web Site at the
following address: <http://www.parl.gc.ca>

Publié en conformité de l'autorité
du Président de la Chambre des communes

PERMISSION DU PRÉSIDENT

Il est permis de reproduire les délibérations de la Chambre et de ses comités, en tout ou en partie, sur n'importe quel support, pourvu que la reproduction soit exacte et qu'elle ne soit pas présentée comme version officielle. Il n'est toutefois pas permis de reproduire, de distribuer ou d'utiliser les délibérations à des fins commerciales visant la réalisation d'un profit financier. Toute reproduction ou utilisation non permise ou non formellement autorisée peut être considérée comme une violation du droit d'auteur aux termes de la *Loi sur le droit d'auteur*. Une autorisation formelle peut être obtenue sur présentation d'une demande écrite au Bureau du Président de la Chambre.

La reproduction conforme à la présente permission ne constitue pas une publication sous l'autorité de la Chambre. Le privilège absolu qui s'applique aux délibérations de la Chambre ne s'étend pas aux reproductions permises. Lorsqu'une reproduction comprend des mémoires présentés à un comité de la Chambre, il peut être nécessaire d'obtenir de leurs auteurs l'autorisation de les reproduire, conformément à la *Loi sur le droit d'auteur*.

La présente permission ne porte pas atteinte aux privilèges, pouvoirs, immunités et droits de la Chambre et de ses comités. Il est entendu que cette permission ne touche pas l'interdiction de contester ou de mettre en cause les délibérations de la Chambre devant les tribunaux ou autrement. La Chambre conserve le droit et le privilège de déclarer l'utilisateur coupable d'outrage au Parlement lorsque la reproduction ou l'utilisation n'est pas conforme à la présente permission.

On peut obtenir des copies supplémentaires en écrivant à : Les
Éditions et Services de dépôt
Travaux publics et Services gouvernementaux Canada
Ottawa (Ontario) K1A 0S5
Téléphone : 613-941-5995 ou 1-800-635-7943
Télécopieur : 613-954-5779 ou 1-800-565-7757
publications@tpsgc-pwgsc.gc.ca
http://publications.gc.ca

Aussi disponible sur le site Web du Parlement du Canada à
l'adresse suivante : <http://www.parl.gc.ca>