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Chair: Mr. Sven Spengemann



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• (1610)

[Translation]

The Chair (Mr. Sven Spengemann (Mississauga—Lakeshore, Lib.)): Respected colleagues, good afternoon.

I call the meeting to order.

Welcome to meeting number 16 of the Standing Committee on Foreign Affairs and International Development.

Pursuant to the motion adopted on January 31, 2022, the committee is meeting for its study on vaccine equity and intellectual property rights.

[English]

Mr. Marty Morantz (Charleswood—St. James—Assiniboia—Headingley, CPC): Mr. Chair—

The Chair: Is this on a point of order? Let me finish my opening remarks, if that's okay. Thank you, Mr. Morantz.

As always, colleagues and witnesses, interpretation is available through the globe icon at the bottom of your screen. For members participating in person, please keep in mind the Board of Internal Economy guidelines for mask use and health protocols.

[Translation]

I take this opportunity to remind everyone that screenshots or taking photos of your screen is not permitted.

Before speaking, please wait until I recognize you by name and, when speaking, please speak slowly and clearly. When you are not speaking, your microphone should be on mute.

I also remind you that all comments by members and witnesses must be addressed through the chair.

[English]

I would like to now welcome our witnesses. I'll then turn it over to Mr. Morantz if it's a point of order, before we get started, but I'd like to make the introductions.

Colleagues, we have with us this afternoon from CARE Canada, Dr. Ihlas Altinci, sexual and reproductive health technical adviser.

Thank you very much, Doctor, for joining us late in the day, your time. It's very much appreciated.

We also have Nicole Tobin, head of programs in global health. From Doctors Without Borders, we have Dr. Adam Houston, medical policy and advocacy officer, and Dr. Jason Nickerson, humani-

tarian representative to Canada. From the Economist Intelligence Unit, we have Ana Nicholls, director of industry analysis. Welcome and thank you.

We will give the floor to each of the three groups for five minutes for opening remarks, beginning with CARE Canada.

One more time, Mr. Morantz, is it related to the discussion or is it something else?

Mr. Marty Morantz: It's not a point of order. It's a matter I wanted to raise.

The Chair: Can you raise it during the allocation of time, if that's convenient?

Mr. Marty Morantz: Sure.

The Chair: I understand that CARE Canada will lead us off and will be splitting their opening remarks of five minutes between the two representatives. I will give the floor to CARE Canada.

Before we start, I have a very manual way of signalling when you have 30 seconds left in your testimony or members' questioning time, so please keep an eye on this virtually, as you can.

It's over to CARE Canada, please, for opening remarks.

Ms. Nicole Tobin (Head of Programs, Global Health, CARE Canada): Thanks so much, and good afternoon—

Mr. Joël Godin (Portneuf—Jacques-Cartier, CPC): I have a point of order.

The Chair: I'm sorry. Is there point of order?

Go ahead, Monsieur Godin.

[Translation]

Mr. Joël Godin: I have not had a chance to do a sound test. So I would like to make sure that everything is working well on the technical side and that you can hear me well. I can hear you very well.

The Chair: I also hear you well.

Mr. Joël Godin: Thank you.

[English]

The Chair: We'll go back to CARE Canada, please.

Ms. Nicole Tobin: Thank you. Good afternoon.

From our offices on the unceded and unsundered territory of the Algonquin Anishinabe nation, I thank the committee for inviting us to appear as part of this study.

My name is Nicole Tobin, head of global health programs at CARE Canada.

Gender justice is at the heart of all the humanitarian and development work we do in the CARE confederation. Health gains have been threatened by intersecting crises of COVID, conflict and climate. Women's leadership is essential to rebuild health systems that ensure access to life-saving services for all.

CARE joins Canadian civil society in calling on Canada to work for a consensus at the WTO to improve the compromised TRIPS waiver proposal that was recently tabled. Today, we are invited to testify regarding the equitable delivery of vaccine supplies, focusing on gender.

I'm really pleased to introduce you to Dr. Ihlas Altinci, sexual reproductive health adviser, based in Gaziantep, Turkey, with work in Syria.

Dr. Ihlas Altinci (Sexual and Reproductive Health Technical Advisor, CARE Canada): Thank you very much and I also thank you for this opportunity.

Addressing intellectual property rights to improve global access to supplies is essential and must be accompanied by investment in health systems and health workers to deliver those supplies. The CARE confederation has reached 15.7 million people in 53 countries with our COVID programming. Though each context varies, CARE's analysis indicates that the true cost is often much higher than the global estimates account for, when factoring in health workforce and community readiness costs.

Vaccine equity requires targeted and increased investment in delivery. In April, CARE testified to the UN Security Council on vaccine equity gaps in humanitarian settings.

Today I will provide testimony using northwest Syria as a case study regarding vaccine equity and focus on awareness raising. I will give a brief description of the Syrian context.

Compared to the global and Canadian populations, few Syrians have been vaccinated. Only about 9% of the total Syrian population have received one dose and only about 5% are fully vaccinated.

In Syria, COVID is at the bottom of the list of priorities. People face so many hardships including shelling, violence and lack of food and shelter, let alone COVID masks. They live in tents or improvised shelters and cannot socially distance. However, it's positive that 70% of health and humanitarian workers in Syria are fully vaccinated now.

In our context, there's a critical shortage of all health staff. They work long hours in difficult conditions and most health facilities are improvised. They could be in a house, an abandoned building or a school, and they're not equipped as a normal hospital or health facility is. The health and safety of those workers are constantly at risk. They lack consistent access to personal protective equipment. Early in the pandemic they lacked basic leave. Sometimes staff would even conceal symptoms so they would not lose pay.

Because they work in such contexts, some are threatened, beaten or even stabbed, yet health workers—over 70% of whom are women at the global level—are the key to equitable vaccine delivery. Trusted providers can reach underserved communities, doing door-to-door and in-person communication to build vaccine acceptance. They are trusted because they meet families' holistic health needs, including childhood immunization and reproductive and maternal health care. It's very important to have women vaccinators who are more likely to be trusted by women patients.

To achieve vaccine equity, these are my key recommendations.

It's critically important that all actors invest in equitable health systems delivery. We ask that Canada adequately and consistently fund frontline and community health care workers and the organizations they work for.

We must also ensure that there are consistent norms and standards to ensure fair pay and safe and supportive working conditions for all health workers, including humanitarian responses. This includes ensuring they have access to personal protective equipment, testing and treatment, vaccines and paid sick leave.

Finally, to ensure that health workers and their organizations have meaningful roles in decision-making as well as the delivery of the COVID vaccine rollout, their leadership and expertise must drive decision-making for health care delivery in crisis settings. They can address hesitancy and gender-related disparities in access to COVID information and services, including collecting and using sex, age and gender disaggregated data. They can also develop strategies to specifically reach women and other marginalized populations.

Thank you.

• (1615)

The Chair: Thank you so much, Dr. Altinci, for your opening remarks.

We will now go to Doctors Without Borders for five minutes. I understand Dr. Nickerson will deliver remarks.

Please go ahead.

Dr. Jason Nickerson (Humanitarian Representative to Canada, Doctors Without Borders): Thank you very much, and thank you for having us.

Doctors without Borders, or Médecins Sans Frontières, MSF, has been on the front lines of responding to medical needs created or worsened by armed conflicts, natural disasters and disease epidemics for more than 50 years. This experience has, of course, informed our response to the COVID pandemic.

Even before vaccines became available, we urged countries and the pharmaceutical industry to remove intellectual property barriers for COVID medical technologies and to prioritize the delivery of safe and effective COVID vaccines to health workers and vulnerable people around the world. We urged this because for decades MSF has seen how patents can create barriers between vital medicines and patients who need them for diseases like HIV and tuberculosis. We knew full well that the risk of effective vaccines becoming inaccessible to people in low- and middle-income countries was high.

As you know, this inequity came to be and COVID-19 continues to circulate and evolve, while vaccines remain out of reach for many.

We want to emphasize that inequitable global access to medicines due to intellectual property barriers is not unique to COVID-19. In fact, inequitable access to COVID vaccines is a symptom of dysfunctional pharmaceutical research and development and distribution systems. Therefore, today's conversation needs to extend beyond what needs to happen right now for this pandemic to broader questions about intellectual property and access to medicines for the future.

This conversation also takes place against the backdrop of broader reforms to international law, and particularly a pandemic treaty in the early stages of negotiation under the WHO. The shadow of vaccine inequity hangs over these negotiations. Canada's actions and inactions on vaccines may very well influence how it is perceived by other countries at the pandemic treaty negotiating table.

To this end, the failure of the international community to come to an agreement on the narrow issue of a time-limited loosening of intellectual property rules during the pandemic, exemplified by the TRIPS waiver, first proposed in the fall of 2020 and still unresolved today, is not a promising sign. Nor is Canada's refusal to adopt a public stance on this issue.

A sizable majority of countries, more than 100, voiced support for the TRIPS waiver. Canada appears to have kicked the can down the road for 18 months, seemingly hoping the problem would resolve itself.

While today global vaccine supply is no longer the predominant barrier to access that it was six months ago, intellectual property does continue to be a barrier to accessing other COVID tools like therapeutic drugs, and will be a problem in future pandemics.

Canada and the world need to do considerably more to promote access to vaccine technologies, not only for COVID-19 but for other diseases both old and new. We know there will be more pandemics. We know that there are diseases that exist today that have

pandemic potential, for which there are no vaccines and no effective treatments and little in the pipeline. Canada has supported good work on vaccine and therapeutics development, but the reality is that these investments often lead to technologies that are not developed beyond their early stages because of a lack of funding or commercial interest. Consider the Canadian-discovered Ebola vaccine that sat on a shelf for years.

Otherwise, if they are developed further, they end up priced out of reach of patients and health systems because Canada refuses to demand that medicines and vaccines developed with public funds be made affordable and accessible when they come to market, including for Canadians. This is bad public health but also, frankly, bad business. A vital guiding principle should be that public investments for public health should, first and foremost, yield public benefits. They should not be subsidies for incredibly profitable companies that ultimately retain all decision-making over affordability and access.

Canada's renewed support for both R and D and domestic manufacturing are welcome, but it should come with strings attached. The outcome should be measured not in dollars earned but in lives saved.

One area where Canada can do something positive is in relation to the Canadian-developed technology that has proven crucial to the pandemic response. The lipid nanoparticle technology underpinning mRNA vaccines, like Pfizer and Moderna, was invented in Canada by companies spun off from the University of British Columbia. Canada should be proud of this achievement, but more than that, Canada should be making sure life-saving Canadian technology gets to all who need it. Instead, Canada has been bizarrely silent on technology transfer of lipid nanoparticle technology. To encourage such transfer, Canada could be using sticks, it could be using carrots or a combination of the two. At the moment we're hearing crickets.

We need to continue to push to ensure that people everywhere are protected against COVID-19, but we also need to be preparing for future pandemics by learning lessons of what's worked and what hasn't over the past two and a half years.

We're happy to answer your questions. Thank you.

• (1620)

The Chair: Dr. Nickerson, thank you very much for your opening remarks.

We will now go to the Economist Intelligence Unit and Ms. Nicholls.

Ms. Nicholls, thank you also for being with us very late in your day, and thank you for spending time with us on this very important issue.

I will pass it over to you for five minutes of opening remarks, please.

Ms. Ana Nicholls (Director, Industry Analysis, Economist Intelligence Unit): Good morning. Thank you very much for inviting me as a witness for your inquiry.

I'm sure you've heard plenty of evidence during these hearings about the inequity of the global vaccine rollout. I have to say that this inequity was predictable. The Economist Group forecast it back in May 2020, when the vaccines were still being developed. A subsequent map we published that forecast that low-income countries would not see large-scale vaccination until 2023 or beyond went viral, because it was so controversial. It has since been vindicated by events.

There were many reasons for our prediction. One was the funding and purchase deals that were being used to support the research and to secure early supplies. We realized that global supplies would be slow to ramp up, prompting vaccine hoarding. We expected bottlenecks in shipping and logistics, as well as delivery difficulties at the local level, particularly in countries with weak health care systems. Finally, we reckoned on vaccine hesitancy reducing uptake in many countries to differing degrees.

In reality, the vaccine rollout has been quicker than we expected in some countries. UAE, Rwanda and Cambodia spring to mind. COVAX has been one reason for this, but so have the efforts of these countries as well as vaccine donations by other governments and institutions, including Canada. Nevertheless, there are still 2.7 billion people across the world who are unvaccinated. Most of them live in low-income economies.

Other witnesses have spoken about the health impacts of this unequal vaccine rollout, including the room it leaves for dangerous COVID mutations. The Economist Group has also highlighted the economic impact. We predicted in September 2021 that vaccine inequity would cost the world \$2.3 trillion in lost GDP, with poor countries bearing the brunt of that. Over the four years from 2022 to 2025, we predicted that sub-Saharan Africa would lose around 2.9% of GDP as a result of low vaccination rates. The Middle East and Africa would lose 1.4% of GDP, and Asia-Pacific 1.3%. In contrast, losses in other regions, such as North America and Europe, would be minimal.

These forecasts point to the severe economic as well as health impacts of vaccine inequity, but the question the panel is looking at is whether intellectual property rights played a crucial role in this inequity, and whether global relaxation of patent rights would help.

Although companies such as Moderna have said that they would not enforce patents during the pandemic, proponents of the waiver have argued that it would give legal security to generic producers. However, I doubt that a waiver would have prevented the lack of global vaccine supplies that was the main source of inequity in 2021. The right to produce innovative medicines can be protected in three ways—through patents and IP rights, but also, in most

countries, through marketing exclusivity and data exclusivity rights.

What are all these protections protecting? They're not just legal barriers. They're essentially about the protection of knowledge. This includes the technical knowledge about the formulation but also the somewhat unwritten understanding about the production process. I would argue that this knowledge can be acquired only through technology transfer, which requires long-term buy-in and co-operation from the original developer. That co-operation would not be forthcoming if IP rights were waived against their will.

I base this opinion partly on my experience in speaking to companies in developing markets about previous efforts to waive patents under TRIPS—for example, in Brazil, in the legislation allowing compulsory licensing, which was strengthened during the pandemic. Despite this, the country's pharmaceutical companies have in recent years preferred to use voluntary licences negotiated with the patent holder, because it gives them access to that knowledge and technology transfer. Fiocruz, for example, struck a deal with AstraZeneca that has allowed it not only to produce that vaccine but also to develop its own.

Technology transfer takes time, and so does ramping up production. That proved very difficult at first during the pandemic, partly because of global shortages of active pharmaceutical ingredients. However, more recently these voluntary licensing deals or contracts, supported by various government institutions, have been successful in raising global output of COVID vaccines. As other witnesses have noticed, supply is no longer a barrier to the vaccine rollout.

I do believe, furthermore, that the IP protections were helpful to the innovation that produced these vaccines in the first place. Some of the more publicly funded vaccines, including the Russian, Chinese and Oxford-AstraZeneca vaccines, did have less of a commercial imperative.

● (1625)

However, the mRNA and other technologies behind the Pfizer and Moderna vaccines were largely developed in the commercial realm in the decades before COVID.

According to a report in Nature, by 2019 there were already 130 mRNA patents, of which 70% were filed by industry, notably by Moderna, CureVac, BioNTech and GSK. The reason these companies invested in this research for decades was because these technologies have wide potential, well beyond COVID. These mRNA technologies can be used to combat other infectious diseases such as HIV, as well as cancer and genetic disorders.

That is why I would argue that waving patent protections for COVID vaccines, against the wishes of the patent holders, would not help with vaccine inequity because it would deter the transfer of knowledge. It could also adversely affect future innovation in life-saving medicines if investors felt the patents were not secure.

The Chair: Ms. Nicholls, thank you very much for your opening remarks.

We will now go to round one of questions by members. These are segments that are timed at six minutes each. Leading us off will be Mr. Morantz for six minutes.

Please go ahead.

Mr. Marty Morantz: Thank you, Mr. Chair.

I'll be using my time to introduce a motion.

The motion is related to Mr. Chong's Winnipeg lab motion. As I understand it, Mr. Chong spoke with you, Mr. Chair, on Monday and asked that you set aside one hour on Friday, which is tomorrow, to consider the matter. You declined this reasonable request.

Second, I emailed you yesterday asking you to set aside the last 15 minutes of this meeting to consider the matter of the Winnipeg lab motion, and I've not yet had the courtesy of a reply.

In the meantime, your government has announced a new non-parliamentary committee that has no obligation to Parliament, to report to Parliament or to be guided by Parliament. It is to be governed by retired justices and not elected Parliamentarians.

[*Translation*]

Ms. Rachel Bendayan (Outremont, Lib.): I have a point of order, Mr. Chair.

[*English*]

Mr. Marty Morantz: This, in my view, is an affront—

The Chair: Mr. Morantz, may I interrupt you for one second?

There's a point of order. We'll hear that point of order and then go back to you.

[*Translation*]

Ms. Rachel Bendayan: I'm sorry for interrupting my colleague, but it seems to me that, as this is a motion of a member of this committee who is being replaced today by our colleague Mr. Godin, who is online, he should rather be the one to move the motion.

Do correct me if I am wrong.

The Chair: Ms. Bendayan, thank you very much for this point of order.

[*English*]

The motion was submitted with notice, so it's formally before the committee and Mr. Morantz can move it on behalf of Mr. Chong.

Mr. Marty Morantz: Thank you, Mr. Chair.

This committee that your government has announced is to be governed by retired justices, not elected Parliamentarians. This, in my view, is an affront to this committee, which has been seized with the issue since December.

My motion is as follows: I move that we resume debate on Member of Parliament Michael Chong's Winnipeg lab motion of December 13, 2021, and that a vote on this motion be had by the end of this meeting.

• (1630)

The Chair: Mr. Morantz, thank you. I want to make sure that both components of that motion are in order. It's a motion to resume debate. I don't know if there are any conditions that can be attached to that or if it's dilatory and non-debatable. There's a second component, which is to land on a vote by today.

Mr. Morantz, the guidance that I have is that the second component—which is to land the motion today in the form of a vote—makes it a debatable motion. Whereas, if you were to move to resume debate right now, that would be non-debatable and would trigger a vote by members of the committee.

Is it the second option that you wish to exercise?

Mr. Marty Morantz: Yes.

The Chair: Thank you very much.

Mr. Marty Morantz: I'm sorry. No, I want it to be debated now.

The Chair: Yes, so with the condition added that it be voted on today, it becomes debatable because it's something in excess of just resuming debate.

Mr. Marty Morantz: Yes.

The Chair: Thank you very much for that.

Mr. Garnett Genuis (Sherwood Park—Fort Saskatchewan, CPC): Please put me on the speakers list.

The Chair: Yes.

The motion is before the committee. I would invite colleagues to raise their hands for interventions, both virtual and in person. We're trying to develop an integrated speakers list.

Mr. Genuis has his hand raised. For any other interventions, please signal. I see Mr. Morantz.

Do any colleagues online wish to speak? Not at the moment.

Why don't we start with Mr. Genuis, please, and then Mr. Morantz?

Mr. Garnett Genuis: Thank you very much, Mr. Chair.

It's important to underline the context for this motion as well. It's a bit frustrating because, as Conservatives, we've, first, wanted to protect the rights of Parliament to access documents, and second, also have a good, constructive working relationship with this committee. We don't relish the need to bring forward a motion like this in the context where we have witnesses, but the reality is that this motion was first moved in December. The government dragged it out at the time, and as my colleague has highlighted, we've been working and looking for opportunities to be able to bring this motion forward. We've continually been stymied and blocked in the ability to actually have that debate here at this committee on the issue of the Winnipeg lab documents.

As the foreign affairs committee, we have to take very seriously the fact that we're talking about issues of threats to democracy, about democratic decline around the world. Part of how we should respond to that is to ensure we are always consistent with democratic best practices, the rule of law and the rights of Parliament in terms of our own functioning and our own practice here in Canada.

We had a situation previously where a committee of this House, exercising all of its rights as a committee, ordered the production of documents. The government repeatedly refused to comply, and in the context of that, all opposition parties, Conservative, Bloc and NDP, were very firm about the point of the rights of parliamentary committees. Further, in fact, the initial request for documents was unanimously agreed to by all members of the committee, including by members of the government.

This is an important principle about access to documents. We've tried to bring this issue back to the committee to have the debate on it at this committee. Unfortunately, you have not responded to my colleague, the vice-chair. You have not seen fit to set aside time to actually schedule this discussion. I think we need to talk about this. It's not just about whether the government can create an opportunity for external actors, judges, to rule on what parliamentary committees can and can't see. Parliamentarians shouldn't presume to tell judges how to do their jobs, and judges shouldn't presume to replace the functioning of parliamentary committees.

I think this is a clear issue. We're saying, let's bring back this motion, let's have a debate and let's bring it to a conclusion and a vote. If we aren't able to proceed with that, then we will have really undermined the proper functioning of what committees are supposed to be doing.

Again, I just come back to the point that, as a foreign affairs committee, we have to think about democratic norms. We have to think about the example we're setting. We don't want to see a democratic decline here in Canada as we've seen in some other countries. That means defending and respecting the prerogatives of Parliament to order documents and not backing off or claiming that we're victims of some logjam. There's no logjam here. It's a matter of the government having just refused to adhere to their constitutional obligations.

I hope this motion from my colleague passes, and I hope we'll be able to move forward with this motion.

Thank you very much.

• (1635)

The Chair: Mr. Genuis, thank you very much.

Mr. Morantz, please, we'll go over to you.

Mr. Marty Morantz: Thank you, Mr. Chair.

Just to continue on with what my colleague has said, we have established—long-established—democratic institutions in this country, one of which is the system of standing committees in which we are participating right now. In this particular case, Mr. Chong introduced a motion that was passed by the House of Commons in the last Parliament. It is a very thoughtful motion and deals in a very reasonable manner with the idea of making sure there are redactions and that the documents are reviewed by the law clerk and parliamentary counsel and by this committee, which reports directly to Parliament. The ad hoc committee that your government has proposed is not responsible to Parliament. It really begs the question whether something very serious happened, whether there was a serious national security breach at the Winnipeg lab.

It's vital at this point that this committee, which has been seized with this motion since December, debate this issue, get these documents, discuss what needs to be redacted or doesn't need to be redacted, and that this idea of an ad hoc committee be dispensed with. As parliamentarians, we don't tell judges how they should decide their cases. Frankly, three retired justices shouldn't be telling us, as elected parliamentarians participating in this committee as a democratic institution, how we should be deciding this matter.

I urge you, to ensure the confidence of all Canadians in the integrity of our democratic institutions, that on an issue as important as this, where we've had a call for production of documents over and over again in this Parliament and in the last Parliament, to make sure this matter is handled in accordance with long-established historical systems that have been established specifically for this purpose. This motion is rightfully before the committee and I urge all our colleagues—

The Chair: Mr. Morantz, if I can interrupt, you might be well at the end of this intervention, but we have bells.

Mr. Marty Morantz: —to support the motion.

Thank you.

The Chair: Colleagues, can I have unanimous consent? I don't know if colleagues wish to vote in person. I'm going to propose, as a starting point, 15 minutes of extended time into the bells. If anyone has contravening views to go more into the period, we can do that, but is 15 minutes okay?

Some hon. members: Agreed.

The Chair: We have unanimous consent to continue for 15 minutes.

Mr. Morantz, we'll go back to you. I think you were just about to wrap up.

Mr. Marty Morantz: Mr. Chair, I think I've made my arguments. It's vitally important that this issue be considered by a standing committee—the foreign affairs committee—not by some makeshift, ad hoc committee that's outside of Parliament and that does not report to Parliament.

It makes no sense, and I urge all members of this committee to respect the integrity of the standing committees and of our democratic institutions and make sure that this ad hoc committee goes nowhere and that this is considered right here where it should be.

Thank you.

The Chair: Thank you, Mr. Morantz.

On the speakers list right now, I have Mr. Sarai, Madam Bendayan and Mr. Genuis.

Mr. Sarai, the floor goes over to you, please.

Mr. Randeep Sarai (Surrey Centre, Lib.): Thank you, Mr. Chair.

I think it must be noted that the new committee that is being struck to look at this specific issue at hand, in regard to the very sensitive and secure nature of it, is an ad hoc committee of parliamentarians. This has been done before. We've had it done at the request of the opposition for all parliamentarians, to do that for Afghanistan and other issues.

The only particular difference in this case is that three retired judges, chosen by every party in this respect so it will be a consensus-based appeal to get those judges, will look at the redactions that are required in order to protect the security and sensitive nature of this report. That is where the judges come into play, so that partisanship doesn't come into play. It acknowledges our agreements with global Five Eyes and other agencies to protect the nature of our intelligence.

Those independent views are very important to have and it's an essential part in how we govern. As parliamentarians, we have our obligations, which would be accommodated in such a committee. We also have obligations from other commitments that we have, and to enforce that, people trust the nature of our justices and the integrity they have. Therefore, I think it's a very appropriate measure to have three judges who have retired and have an immense amount of experience in that to be responsible to ensure that what gets out in a public format is secure and protects the integrity of our security systems as well as the intelligence reports we receive from others.

• (1640)

The Chair: Mr. Sarai, thank you very much.

Colleagues, just before we go to Madam Bendayan, we have a panel of witnesses, two of whom are dialing in from overseas. We have a number of colleagues on the speakers list and we're close to what would be our extended time with this panel. I wonder if we could have consensus to release the panel with our thanks. I'm grateful that they were able to give us their opening remarks. They're very free to send us additional comments or points in writing or to respond to questions from members in writing.

Would colleagues agree that we thank them and let them—

Ms. Rachel Bendayan: Mr. Chair, with respect, I believe I was up next on the speakers list, and actually that was going to be what I would have requested. However, before releasing the witnesses, I would like to put on the record that we have before us Médecins Sans Frontières, CARE Canada, and I believe, Ms. Nicholls, another witness, all of whom, from the work I have read and the briefings I was looking at to prepare for this meeting, are working tirelessly in order to save lives and to support people who are vulnerable right across the world.

I think it is an aberration that we are releasing them without asking them the questions that they have prepared for and that they have come to this committee to discuss. It is extremely unfortunate that the Conservatives are playing politics.

Mr. Garnett Genuis: You should have given us time, in four months, to debate our motion.

The Chair: Mr. Genuis, wait one second.

Ms. Rachel Bendayan: I think it is extremely unfortunate that the Conservatives are playing politics when we have before us a panel of witnesses—

Mr. Garnett Genuis: [*Inaudible—Editor*] documents to the House.

The Chair: Order, please.

Ms. Rachel Bendayan: Sir, the floor is not yours.

The Chair: Colleagues, let's try to keep order, please.

Ms. Rachel Bendayan: Mr. Chair, I would like to thank these witnesses for taking the time to be here today. I would request that we very respectfully excuse them from the rest of this meeting.

The Chair: Is everybody agreed that we should, with our sincere thanks, ask our panel to disconnect at their discretion?

Thank you for being with us. We will hear from you in writing if you choose to add arguments to your submissions today.

[*Translation*]

Many thanks to the witnesses for their testimony. I thank them for sharing their expertise with us.

[*English*]

Madam Bendayan, you are next on the list. The floor goes back to you.

Ms. Rachel Bendayan: That was my intervention. Thank you.

The Chair: Thank you very much.

Mr. Genuis, we'll go back to you, please.

Mr. Garnett Genuis: Mr. Chair, let's be very clear about the situation here. We moved a motion about the basic democratic rights of parliamentarians to access documents. We moved that motion four months ago, and that was following a situation where the government took the Speaker of the House in the previous Parliament to court to prevent him from enforcing the rights of parliamentarians and then, after that, called an election to block further action by Parliament on this issue of the violation of privileges of parliamentarians.

It is a great and ancient right of parliamentarians to request any documents to use in the exercise of their functions. This government showed flagrant disregard for this core constitutional principle and then called an election after trying to take the Speaker of the House to court.

We came back in December with a motion to order these documents, to resume the work that had been done in a previous Parliament. Then, after that, you, Mr. Chair, and other members of the committee, did not give us an opportunity to have a conversation on that motion for four months. To suggest that we are somehow responsible for the fact that, in the presence of these witnesses, it was finally necessary to bring this forward is beyond outrageous.

If the chair had so much as offered my colleague, the vice-chair, the courtesy of a response to an email asking for 15 minutes to discuss this, we could have, I think, scheduled this well. There's a time slot that would have been available tomorrow for an hour, when we could have taken the time to debate this as well. From what I understand, that time slot is still available. We could have spent an hour tomorrow debating this issue. Instead, the request from our shadow minister Mr. Chong for an hour to debate the issue of the Winnipeg lab documents was completely ignored. When the government shows such disrespect for the basic right of parliamentarians to access documents, at a certain point we have to assert the importance of democratic norms.

I have news for this committee. There are international organizations that monitor and track the state of democracy, and they are identifying issues of democratic decline happening in Canada. I'll give you an example of that. In terms of the score given by IDEA, which is a Swedish think tank that evaluates democracy, Canada's score for checks on government has fallen substantially, from 0.77 to 0.68. We are behind peer countries in terms of effectiveness of Parliament scores and in terms of checks on government.

When we talk about questions of democratic decline and we see what is happening here in Canada with our own institutions, these are issues that we have to take seriously. I have a great deal of respect for the important work being done by witnesses, but if again the government is showing such disregard for our institutions and for the right of members of Parliament to request documents, then it is time for us to take action.

I note that the parliamentary secretary for foreign affairs, who was a member of the Special Committee on Canada-China Relations in the last Parliament, was very clear as well at the time—initially—saying that we should be able to access these documents. Members of that committee voted twice unanimously to request those documents, documents that his government subsequently refused to hand over, in violation of the privileges of the committee and of the House.

We've been on this saga for a long time. It's not a complicated saga. It's not a question of a logjam or of procedural complexity. This is an issue of the government failing to follow the law, failing to recognize the fundamental legal prerogatives of Parliament. These are ancient prerogatives, and they exist in parliaments throughout the world. Mr. Sarai talks about our obligations to other Five Eyes countries. Other Five Eyes countries have governments that respect the rights of their parliaments.

I could tell you that the United Kingdom is not going to have a problem sharing intelligence with Canada, even if Canada respects the rights of parliamentarians, because the U.K. shares intelligence with parliamentary committees and respects the right of parliamentary committees to make these requests.

The government's fudge here is to try to confuse us about the very obvious difference between the idea of a parliamentary committee and the idea of a committee of parliamentarians. This is an obvious distinction. To make it amply clear, a committee of parliamentarians could be any group of parliamentarians to get together and do anything.

• (1645)

If Mr. Aboultaif, Mr. Morantz and I have a scotch-drinking committee that meets once a month in Winnipeg, that would be a committee of parliamentarians because it would be a committee of people who happen to also be parliamentarians. That would be very different from a parliamentary committee, which is constituted by the House and has rights given to it by the House. That is part of the democratic functioning of our country.

When the government says that they're going to go off over here and create a committee of parliamentarians that they control and that are subject to a different set of rules, that is so fundamentally different from a parliamentary committee.

Mr. Sarai said that we've done this in other cases and we've created special committees. Yes, we've created special parliamentary committees. The Afghanistan committee that he referred to is a parliamentary committee. There was the Special Committee on Canada-China Relations and there have been other committees on pay equity and other issues in the time I've been a parliamentarian. Those are special committees of Parliament. They are parliamentary committees and, crucially, they have the rights of parliamentary committees, which include the right to request unredacted documents and to review those documents.

That is different from the government saying that they're going to create a committee over here of MPs and they're going to create new, specific rules that apply to it.

This is a fudge that the government is trying to insert into what is actually a very clear and simple issue. Here is the simple issue: A parliamentary committee is not just a committee of parliamentarians. It's not just a group of MPs who are getting together. A parliamentary committee has a special legal and constitutional role in this country. It exercises democratic functions. It reviews legislation. It plays a key role in the legislative process. It's not just here to hear witnesses and make policy recommendations. It can order specific things. It can order documents. It can review sensitive information, and it can give specific directions that in certain contexts have to be abided by.

Unfortunately, one challenge is that it has limited remedies, so when the government has, in the past, ignored the legal obligations that it has to respond to a committee, the committee's remedy is to refer that matter to the House. The House can take further action.

The question before us is simply whether the government is required to follow the law or if the government thinks of itself as above the law. Do members here want to insist on the principle that the committees have these rights or they don't?

I will note that members of all opposition parties, including members of the NDP, have been very clear in the past and consistent about asserting the existence of these rights. I recall that in the last Parliament there was a motion at this committee dealing with access to information about arms exports. It was put forward by former MP Jack Harris, and it was supported by at least all members of the opposition. I think members of the government may have even supported it.

Members of the NDP have, at times—I think consistently, in fact, up until this point—very much insisted on that very same principle. I think members should keep an eye on what is being lost if we start to allow the erosion of this principle.

I talked earlier about the question of declining democracy. This isn't something that we're just coming up with. Credible international think tanks that track and measure the state of democracy look at different variables and indicators. We do see, in terms of what is happening in the democratic life of this country, a lack of respect for democratic norms and a lack of respect for the law by the government. I could bring up all kinds of other examples that are in the news right now. I won't, but I think members are aware of them. The fact is that these things are contributing to the fundamental problems and challenges that we have here.

The question for members is this: Do we think that a chair who is a member of the government should be able to simply ignore, for months, the rights and wishes of members of Parliament to discuss an issue and, in particular, to bring forward the question of the right to access documents? Is this something that people are willing to—for a cheap deal—shrug off and say that they're going to replace a parliamentary committee with a group of parliamentarians getting together under a rubric defined, established and controlled by the government?

We shouldn't just think about this as a short-term party thing, this way or that way. This is a fundamental principle of how our democracy works and the standards that we want it to work under.

• (1650)

Therefore, I hope we will support this motion. We will be able to move forward and finally do something that we should have done four months ago, that we probably should have done six months before that, which is to insist that, on the key issue of the Winnipeg lab documents and all the issues and questions that Canadians have around that, we allow parliamentarians to access those documents in the context of a parliamentary committee that has real power, power given to us not by government but by the people who elected us and by the constitutional framework that is so fundamental to this nation.

I hope that members of Parliament will look past any short-term considerations and seek to defend this principle, because if the NDP or any other party—

The Chair: Mr. Genuis, I apologize.

Mr. Garnett Genuis: —allow the erosion of that principle, it will have long-lasting consequences.

Thank you. I'm done.

The Chair: We're at the point that we had agreed to extend the debate to. Just before we probe to continue further, I want to probe with members in regard to a second panel that we have. They are supposed to start with us now, but we also have a speakers list that now contains four people.

Is there consensus to release the second panel? Is there a will to continue this discussion to the point where we'd tell our second panel that, unfortunately, we cannot hear them today?

Ms. Rachel Bendayan: No, Mr. Chair, I would like the second panel.

The Chair: Okay. Can we have views from other members?

It becomes a bit of a chicken-and-egg question, because we haven't adjourned this debate. There is a speakers list and it is going to continue. Just in the interest of practicality and the vote that's intervening—

Ms. Heather McPherson (Edmonton Strathcona, NDP): It can be very quick.

The Chair: —I think this panel is not going to happen, with every bit of interest, but I just want to hear views. Would you agree that we would release under these circumstances?

Mr. Garnett Genuis: I think it's sensible, under the circumstances, to release the second panel.

In any event, if members want them to wait around and see what happens, that's okay too, but I think it makes more sense to release them under the circumstances.

The Chair: Madam McPherson.

Ms. Heather McPherson: As devastating as it is for me to say this, I think it is very clear that what we were hoping to avoid, we will not be able to avoid. The opposition, the Conservatives, have decided that this is more important than getting to the bottom of vaccine equity. It is so disappointing.

• (1655)

The Chair: I don't want to continue debate, because we're at the point that we've agreed to stop the debate.

Ms. Heather McPherson: I know. I think it is only fair to release the witnesses, and hopefully we can have them come back at another time.

The Chair: Okay. Is there any opposition to that? In light of the circumstances at the moment, we will thank our second panel and bid them farewell for the time being. We don't really have much of an option unless everybody wishes to withdraw from the speakers list and we change tack. At this moment, I don't see the will of the committee as being that.

With that, Madam Clerk, I think we will thank our second panel.

We are at the point at which we've agreed to stop for the vote. Is there consent to continue further for another, I don't know, five minutes, yes or no?

I see a shaking of heads, so that stops the discussion until we have the result from the vote. We stand suspended until that time.

• (1655) _____ (Pause) _____

• (1720)

The Chair: We will resume our discussion. I currently have a speakers list that has Mr. Oliphant, Mr. Ehsassi and Monsieur Bergeron.

Mr. Oliphant, go ahead please.

Hon. Robert Oliphant (Don Valley West, Lib.): Thank you, Mr. Chair. My remarks will be brief.

I will assert very profoundly that, as Mr. Genuis said—I'm not quite quoting him—I believe in the supremacy of Parliament. I believe in the absolute right of parliamentarians to request documents, papers and other items to do their work, but I also am very much convinced that, in this situation, an elegant solution has been reached. I am hoping that the Conservative Party and the Bloc Québécois will avail themselves of the opportunity to both read unredacted documents and to understand the nature of the redactions, and then to deal with the process that will involve an independent judicial panel that will make a final determination. I think it respects Parliament. There is nothing in our tradition that says that parliamentary committees are paramount over parliamentarians, and there is flexibility. There is always movement and understanding within the tradition.

I heard Mr. Genuis earlier speak about a shadow minister. I would ask him, through you, Mr. Chair, at some point to tell me where, in our Standing Orders, that title exists. We accept it because it is a moving tradition that one party has chosen to use, but it's not part of parliamentary tradition, and it is not part of our Standing Orders. However, we suffer it, and we allow them to use that, though it isn't part of our tradition. Likewise, parliamentary committees are part of our tradition, but there is nothing in our tradition that doesn't allow for other things.

We are borrowing a page, frankly, from former prime minister Stephen Harper, who I think also found an elegant solution when it came to the Afghanistan papers. That was acceptable to the Conservatives of the day, in a very similar situation. I am hoping that they will see that this is a very acceptable and elegant solution.

It does two things. It preserves the right of parliamentarians, who are delegated. I am not at everything that happens in Parliament, but as long as there are parliamentarians sharing my views involved in it, I feel part of it. This gives a chance for Parliament to express its supremacy and to make that demand.

At the same time, it also honours the nature of public safety and public security. I would hope that the party of civil rights, which the Conservative Party has declared itself to be since the Universal Declaration of Human Rights was made under a Conservative government, would also see that we have a responsibility as parliamentarians to uphold the good of the whole country. That extends us beyond partisan politics. It extends us into doing something that's good.

On our side, we will be voting against this motion, but not in a vacuum. We're voting against it knowing that there is a solution that's been proposed. We'll be voting against it knowing that, with hope, members of the official opposition will find a way to involve themselves. They've asked to see the papers. The papers are going to be available. This is a way for them to see those. I hope that they would trust their colleagues who are chosen to be part of that committee to do that work on their behalf.

Thank you, Mr. Chair.

• (1725)

The Chair: Mr. Oliphant, thank you very much.

Mr. Ehsassi, please go ahead.

Mr. Ali Ehsassi (Willowdale, Lib.): Thank you kindly, Mr. Chair.

I have to say, after having listened to Mr. Oliphant, I think he's covered all the points. I have no further comments.

The Chair: Okay. Thanks very much.

[*Translation*]

Mr. Bergeron, go ahead.

Mr. Stéphane Bergeron (Montarville, BQ): Thank you, Mr. Chair.

I will try to be brief. I will vote for this motion. I have every reason to be favourable to it. First, I was initially among the members who asked that those documents be provided. Second, Bloc Québécois members were excluded from the talks between the NDP and the Liberal Party to strike that ad hoc committee, which is exempt from parliamentary rules.

That being said, I find the way our colleagues went about proposing this motion today extremely disgraceful. We were not informed of it. We did not know what would happen today. When it comes to cooperation among parliamentarians, at the very least, we should have been given a brief overview of what was going on.

I understand there is a relevant element that can explain wanting to proceed quickly. However, I must say that I found Mr. Genuis' virtue signalling a bit exaggerated, with him getting all worked up. He brought up the fact that it was unacceptable that this motion, which was moved in December, had never been adopted. I'm sorry to say so, but we had an opportunity to come up with a work plan. To my major surprise, the Conservatives did not come back with the motion on the National Microbiology Laboratory in Winnipeg. I asked my colleagues whether there was a mistake or a reason why they were not coming back to that motion concerning the Winnipeg laboratory. Apparently, there were internal considerations that meant it was not the right moment to come back to that motion.

However, aside from the secret negotiations between the Liberals and the New Democrats, nothing justified this necessarily happening today and the cavalier way witnesses were released. They had prepared to come share their points of view with us and shed light on the important issue of vaccine equity.

I am extremely embarrassed. Although I am entirely supportive of what our colleagues from the Conservative Party have brought forward today, I am extremely embarrassed by the way they have done it and by the very cavalier and impolite way we have consequently behaved with witnesses. A few moments ago, we talked about the possibility of asking them to come back at a later date. Quite honestly, if I was one of those witnesses, I would say:

• (1730)

[*English*]

“Thanks, but no thanks.”

[*Translation*]

Those witnesses took the time to prepare. They were ready. Some witnesses were even calling us from abroad. I know what they are going through, because I was online for the Parliamentary Assembly of the Council of Europe this morning. So I am in the exact same time zone as our European friends. I think it is unacceptable for us to have behaved as real cads toward them. If we want to claim that we can defend and properly represent our fellow Canadians, we are required, first and foremost, to show a minimum of consideration to them when we make the effort to invite them and they make the effort to prepare to enlighten us on a very important issue.

That is what I had to say, Mr. Chair.

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

Next up are Ms. McPherson and Mr. Genuis.

[*English*]

With one eye on the clock, I'm just wondering if we can keep in mind that we had a preference for finishing as close to 5:30 p.m. as possible.

Madam McPherson, go ahead, please, and then Mr. Genuis.

Ms. Heather McPherson: Thank you, Mr. Chair.

I just want to echo some of the things that have been said by my colleague Mr. Bergeron.

What I was very much hoping to avoid in this committee was the filibustering, the shenanigans, the back and forth that prevented this committee from getting work done in the last Parliament. That was my goal. That was what I was hoping for.

Certainly knowing the time we are in, where vaccine equity is an issue that is affecting billions of people around the world, and with the fact that we are in the midst of a war and need to make sure that we have the time to examine what Russia is doing in Ukraine, the fact that there are conflicts in Tigray, the fact that we have to have opportunities so that we can actually look at what's happening with Palestine and Israel, with Afghanistan, I am so dismayed that the Conservatives chose to put their petty politics in front of all those issues, all those very important issues.

I have to say as well that the idea that they have done everything they can to work with members of this committee is completely false. We were asked, with three days' notice, to be here on a Friday afternoon. I made it very clear to members of the Conservative party that it would not be possible.

First of all, I have House duty. I am a House officer. I can't give up that duty. I have an obligation to represent my constituents in the House of Commons.

I need to get back home to my constituency. That's what members of Parliament do on the weekend, so that I can be in my constituency, meeting with constituents. I make plans. All kinds of things are on my calendar so that I can reach out to my constituents on the weekend before flying back to Ottawa to be here next week to get to work.

I'm sorry, but three days' notice is not appropriate. To say you worked four months to get the committee to work together, and then gave us three days' notice on an emergency meeting, is completely inappropriate.

We have a solution here that would give parliamentarians the ability to see those documents. We need to find a way to work like adults in the room so that we don't end up in a situation where we're filibustering in this committee. Our work is too important. I'm deeply disappointed in the fact that we weren't able to bring our witnesses forward today. I will be bringing forward a motion to ask for us to have that returned. I certainly hope Mr. Bergeron's prediction that they will find it not worth their time to be incorrect. I certainly hope they will agree to join us again. It was an important panel. It was going to give us important information, and I would certainly hope that we can have them back.

Thank you.

• (1735)

The Chair: Ms. McPherson, thank you very much.

Mr. Genuis, go ahead please.

Mr. Garnett Genuis: Thank you, Mr. Chair.

I'll be brief. Very respectfully, if a particular member wants this committee to work well and in a collegial fashion, that member should not engage in secret negotiations with the government, with respect to the process of these documents allegedly being handed over, that do not include all the parties on this committee.

I agree that the work of this committee on many fronts is critically important. The right of this committee to access documents is also critically important. The rights of parliamentary committees and the conventions that are core to the rights of parliamentarians in our Constitution are also critically important.

We could have taken time tomorrow. We could have set aside time today. The reason this was necessary in particular this week, the matter of urgency, was the revelation of the secret negotiations that required this committee to pronounce on this issue.

My final point is that comparisons were made to the situation of the Afghan detainee documents. Let's remember that in the case of the Afghan detainee documents, Speaker Milliken made a ruling. That ruling said that Parliament had the right to access those documents but that he would allow time for dialogue between all parties. That dialogue occurred and it was done fully in accordance with the ruling of Speaker Milliken—Speaker Milliken who, ironically, was elected originally as a member of the Liberal caucus.

When Speaker Rota, who unlike Speaker Milliken was elected by the party of the government at the time, made a ruling, the government did not follow his ruling, and in fact subsequently took him to court. The way that the government of Stephen Harper acted towards Speaker Milliken and the way that this government acted towards Speaker Rota could not be more different: in one case, abiding by the ruling; in the other case, taking the Speaker to court.

The arguments are there and I'm prepared to proceed to a vote, but let me just say that of all the issues that we deal with as a committee, everything is ultimately downstream from our recognition of the rights of parliamentary committees, their ability to compel documents, to compel evidence, and the substantive role of those committees to act from those particular rights. That is our prime directive as a committee: the ability to use those rights to access documents and information and to inform government through that access in ways that other people studying the same issues don't have the powers to do.

We cannot cede that and we cannot accept the solution that takes as its premise that the government doesn't have to comply with the orders of parliamentary committees. On that point, we firmly stand.

The Chair: Mr. Genuis, thank you very much.

Colleagues, are there any additional interventions, from colleagues in the room or virtual, on the motion that's before the committee?

I'm going to take another look just to make sure there are none from anybody in the room or anybody online. Thank you.

Procedurally, there are actually two votes in front of us. The first vote would be to agree to resume debate and to agree to vote today. That was the motion brought by Mr. Morantz. Then once the original motion from Mr. Chong is before us, we need to vote on that motion.

• (1740)

Mr. Garnett Genuis: That's if the first one passes.

The Chair: Exactly. It's if the first motion passes.

Is there any opposition to the first motion that Mr. Morantz brought, which was to resume debate and to vote on the motion today?

Mr. Garnett Genuis: Let's have a recorded vote.

The Chair: There has been a request for a recorded vote.

(Motion agreed to: yeas 11; nays 0)

The Chair: Thank you very much. That motion carries unanimously. In theory and hopefully not in practice, there is now the motion in front of the committee that is again open for debate.

Is there any further debate on Mr. Chong's motion as moved today and is before the committee?

Seeing none, is there a request for a recorded vote on this one as well? Okay.

(Motion negated: nays 6; yeas 5 [*See Minutes of Proceedings*])

The Chair: Thank you very much. That disposes of the motion.

Mr. Oliphant, wait a second. I just want to make a very quick point.

Colleagues, just before we close, I want to flag with you that a set of two proposals for travel has been circulated to you. I would suggest that colleagues review those two proposals over the weekend and that we come to a quick agreement and motion in support on Monday, before or after our panels. That would be much appreciated.

Mr. Oliphant.

Hon. Robert Oliphant: I noticed that Ms. McPherson said she would have a motion after this. I just want to make sure that, on the screen, she has a chance. I don't know whether she had her hand up or still wants to make the motion, which I think could be unanimous—or I hope it would be.

Ms. Heather McPherson: Mr. Chair, I would certainly do that if we could make that unanimous. I would certainly love to bring that motion forward.

The Chair: If we can draw a quick consensus, a unanimous consent motion, yes. If there is protracted debate, we're going to run into other issues.

Mr. Garnett Genuis: Mr. Chair, maybe we could find out what the motion is before we agree to allow it to be moved by unanimous consent.

The Chair: Okay. That's a very roundabout way of doing it, but yes.

Ms. McPherson, could you give us the gist of the motion before moving it?

Ms. Heather McPherson: Yes. The motion would be that we bring back the panellists, or invite the panellists from today who we were unable to hear from and unable to question to come back to the committee so that we have another opportunity to ask them questions and to hear the testimony from the second panel.

The Chair: Okay.

Mr. Genuis, would you agree?

Mr. Garnett Genuis: Yes, we would agree.

The Chair: Mr. Genuis has agreed to consider that motion. The motion is therefore before the committee.

(Motion agreed to)

The Chair: Thank you, Ms. McPherson.

With that, we stand adjourned until the next meeting.

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