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Chair

The Honourable Robert Nault

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• (1635)

[English]

The Vice-Chair (Mr. Dean Allison (Niagara West, CPC)): Pursuant to the order of reference of Thursday, April 14, section 20, for a statutory review of the Freezing Assets of Corrupt Foreign Officials Act, I'd like to welcome our two witnesses today: Garry Kasparov and Irwin Cotler. I don't think either of you need any introduction.

I'm going to try to keep the questions as tight as we can so that as many people as possible can ask questions, so if I try to be a little tighter on time I apologize in advance.

Why don't we go right to opening testimony?

Mr. Kasparov, would you like to start? Then we'll go to Mr. Cotler, and then we'll go back and forth for questions, as we normally do.

Mr. Kasparov, the floor is yours, sir.

Mr. Garry Kasparov (As an Individual): Mr. Chairman, committee members, I am grateful for the opportunity to be here today and to speak about the nature, the goals, and the methods of the Russian regime of Vladimir Putin.

I am not an outsider or an objective observer of these things. No one can or should be objective about repression, torture, or war. We do not owe Putin's victims objectivity; we owe them the truth.

Vladimir Putin is about to celebrate 17 years of uninterrupted, unchallenged power in Russia. He was elected in the year 2000 after being hand-picked by Boris Yeltsin, and that was the last meaningful vote Russia ever had. Democracy in Russia has been systematically destroyed, along with every other aspect of civil society that might challenge Putin's hold on power.

Do not speak of Putin's supposed popularity to an informed Russia. A popular leader does not need to fake elections or destroy the free media or jail critics or kill opposition leaders. Status that is artificially fashioned by 24-hour propaganda, repression of all dissent, and the elimination of all rivals is not approval; it's acceptance.

In the first years of Putin's rule he was relatively weak and he still needed friends abroad. He made very good use of G8 membership, even as he cracked down at home. Critics like me and Boris Nemtsov were right when we said that Putin was an authoritarian when he was welcomed as an equal, with open arms and big smiles, by the leaders of the free world.

The social contract Putin had with the Russian people was that he would create stability in exchange for our freedom. As oil prices fell, Putin was forced to renege on that contract. Hundreds of thousands of Russians marched in the streets in 2011 and 2012 to protest election corruption and economic failure. Putin's answer, as we all know, was repression, propaganda, and war. To destroy the rights of the people, Putin no longer needed friends internationally. He needed enemies, big enemies.

Anti-western, especially anti-American, propaganda on Russian television is far more vicious than anything that ever existed in the Soviet Union in my lifetime. This war propaganda was followed by real war: the invasion and annexation of Crimea, thoroughly denied by Putin and later proudly confirmed.

When the offensive slowed in Ukraine, Putin needed a new target, a new place to look tough: Syria. Putin isn't there for ISIS or an Islamic State; he is there to prop up his ally, Bashar al-Assad, and to produce lots of exciting war footage for Russian television.

Putin is very good at finding places where no one with the power to stop him will stand up to him: Georgia, Ukraine, Syria. The danger is that he may eventually misjudge where he can go, because he has encountered so little resistance so far.

To get a guaranteed hold on power, Putin has targeted the only forces he sees as threats: NATO, the European Union, and the United States. Putin has worked actively for years to undermine the unity of the free world with propaganda and by supporting politicians who share his goals. Putin's machine supports movements like Brexit, far-right groups like those of Marine Le Pen in France and Golden Dawn in Greece, and potential agents of chaos like Donald Trump. Now Italy is on the brink.

Cyberwar, information war, the export of corruption and intimidation are weapons Putin uses frequently and effectively. Something must be done, and soon, because the price of stopping him will only continue to rise. Putin cannot go back to being friends. His power in Russia depends on eternal confrontation. There is no common ground, and seeking it only wastes time and further emboldens him.

The language of appeasement is comforting and politically convenient domestically, but it has always failed to stop foreign dictators and it always will. To stop Putin, to deter his aggression, you must target the only thing he cares about: his hold on power in Russia. The best way to target Putin's power is to take aim at his agents and cronies, those who wield the levers of power and who benefit the most from Putin's rule.

By forcing Putin's elite to choose between him and their comfortable lifestyles abroad, it is still possible to create a split or at least to deter the worst of his aggressions.

● (1640)

The individuals who can influence Putin must be targeted, or there can be no effective deterrence. Putin doesn't care about the Russian people, the Russian economy, or the image of Russia abroad. I repeat, he does not care.

Dictators don't ask why. They only ask why not. Deterrence is the answer. Very strong penalties must be ready and widely known. Deterrence is difficult because its fruits are not apparent. If it works, nothing happens. To those who say the sanctions do not work, can you say what Putin might have done without them in place, or say why he worked so frantically to have them repealed?

Ten years ago when I gave testimony like this I was told that Putin was a Russian problem. I said yes, but unless he's contained soon he'll be a regional problem, and then he will be everyone's problem. Today Putin is in Ukraine, in Syria, meddling in American elections, waging global cyberwar, sponsoring fascists across Europe, and spreading fake news and propaganda worldwide.

The alternative to appeasement is not war: it is deterrence. The best way to avoid a conflict is to convince your opponent that he will lose. The Canadian Magnitsky act will demonstrate the will to stand up to prevent more aggression. It will send a message about the consequences for torture, for murder, and for war. It will be the most effective weapon against Putin's new type of hybrid war of propaganda and intimidation.

Make no mistake: there is a war going on, whether you want to admit it or not, and it's very easy to lose a war that you refuse to acknowledge even exists.

Thank you.

The Vice-Chair (Mr. Dean Allison): Mr. Cotler, you're next.

Hon. Irwin Cotler (Founding Chair, Raoul Wallenberg Centre for Human Rights): Mr. Chairman, members of the committee, like Mr. Kasparov I'm delighted to be here, and I appreciate the invitation to participate in the context of your review of the Freezing Assets of Corrupt Foreign Officials Act and the Special Economic Measures Act. I am doing so against the backdrop of a unanimous House of Commons motion last June and the related private member's bill that I introduced, the global Magnitsky human rights accountability act, calling on the government to enact global justice legislation to, among other things, hold human rights violators to account, including, among others, those Mr. Kasparov addressed in his remarks.

Indeed, this hearing is as timely as it is necessary, for we have been witnessing a resurgent global authoritarianism. It is finding

expression in a massive domestic repression on the one hand, in Russia, in Iran, in China, in Saudi Arabia, in Turkey and the like, underpinned by a pervasive and persistent culture of impunity, matched regrettably on the other hand by a democratic contraction, rather than the democracies empowering themselves through legislation to act.

Fortunately, as we meet, the U.S. Congress has just passed global Magnitsky legislation following their adoption of justice for Sergei Magnitsky legislation in 2012, and again as we meet, an all-party coalition of members of Parliament in the United Kingdom is undertaking a similar initiative. Accordingly, I propose to organize my remarks briefly around three themes.

The first is an abbreviated critique of the two pieces of legislation before you. I've read the witness testimony and so I need not elaborate on that critique.

The second is the nature and *raison d'être* of not only justice for Sergei Magnitsky legislation but really of global justice accountability legislation.

Finally, as a corollary, but not unimportantly, I will speak to the purposes to be served by such legislation. Again, I've read the testimony that has represented the purposes of a sanctions regime. I think there may be some reasons that have not been addressed, which I'd like to put before you.

Beginning first with the Freezing Assets of Corrupt Foreign Officials Act adopted in 2011, there is a major problem and limitation in this legislation, as appeared in the testimony before you. In this legislation, which, as you know, was adopted in the onset of the Arab Spring, the problem is that its application can only be triggered by a request from a foreign state, but it may often happen that the very officials of that state may themselves be beneficiaries of corruption and be complicit in a culture of corruption and criminality. Such a limitation, as the testimony before you gave in one case study of massive corruption in the Maldives, means that the culture of corruption and impunity is maintained rather than held to account through this legislation.

In the matter of SEMA, much of the Canadian sanctions regime under this measure is pursuant to a UN sanctions regime, or Canada associating with a multilateral regime in that regard. However, the threshold for unilateral Canadian sanctions action—again as the testimony before you summarized—is both too high and too general, and therefore has rarely been invoked. It has resulted in only two prosecutions with respect to the SEMA legislation, and those two prosecutions were related to Iran-related activities, suggesting thereby that the triggering of this had to do with the overall sanctions regime of an international character, rather than through Canada being empowered to act where necessary on its own.

That brings me to the second theme, which is the *raison d'être* for the adoption of global Magnitsky legislation by the U.S. Congress and now the U.K. and the European Parliament, and my own tabling both of justice for Sergei Magnitsky legislation in 2011 and a global human rights accountability act in 2015, following, as I said, the unanimous adoption by Parliament of a motion to that effect.

• (1645)

It's not that I was uninformed of the two pieces of legislation before you at the time. It is precisely because these two pieces of legislation, whose critique I abbreviated for the reasons I mentioned, warranted these two initiatives.

In a matter of justice for Sergei Magnitsky, as you know—and I need not belabour this—Sergei Magnitsky uncovered the largest corporate tax fraud in Russian history. He documented the officials responsible for that fraud. They themselves then arranged for him to be arrested, detained, tortured, and murdered in prison, and then in a Kafkaesque cover-up, prosecuted Magnitsky posthumously for the very fraud they perpetrated, and so “justice for Sergei Magnitsky” legislation was introduced in order to combat what is, in effect, a case study of both the culture of corruption and the culture of criminality and impunity in Russia, one in which the criminals, regrettably, can still travel and still launder their assets and not only be rewarded at home but also be the beneficiaries of their corruption and criminality abroad, including in countries such as Canada.

That is why I introduced the legislation in October 2011 and was joined shortly thereafter by Boris Nemtsov—mentioned as well by Garry Kasparov—the leading democratic opposition leader in Russia, who came to Canada to support justice for Sergei Magnitsky legislation, as he put it, “in order to combat both the culture of corruption, the culture of criminality, and in particular the culture of impunity that underpin both.”

But, you may say, Russia is not the only major human rights violator, and this type of legislation may appear to be singling out Russia for sanctions. I must say this would not be the first time. It's important historically—and I'll be very brief—to appreciate that Russia has been singled out, and I'll take one example, because of the telling impact that had. It was the Jackson-Vanik congressional legislation in the seventies that led to the opening of the gates for immigration from the former Soviet Union at the time, and then the Helsinki final act and other related sanctions, which, it has been said, brought about, if I may borrow a Marxist metaphor, the “withering away” of the former Soviet Union because of an effective sanctions regime that targeted the former Soviet Union as a whole.

As well, as someone who represented political prisoners in that former Soviet Union, I know from discussions with them the importance of conveying a message to those who were then in the gulag that they are not alone, that we are with them, that we will be enacting these sanctions, and that we will not relent until they and their country become free.

The resurgent authoritarianism we are seeing today mandates a global human rights act because, as you would readily say and as I acknowledge, Russia, while being a major human rights violator, while being maybe the most threatening of the major human rights violators because of its externalized aggression as well as its domestic repression, is not the only human rights violator, as

recognized in the U.S. legislation, the U.K., the European Parliament, and the like.

Indeed, as someone who has represented political prisoners, and continues to do so, in Iran, China, Saudi Arabia, Venezuela, as we meet, I can tell you that these political prisoners and their plight provide a looking glass into the culture of criminality and the culture of impunity in these countries. Therefore, I understand the importance of globalizing sanctions.

Let me take one other case study, and then I'll move to my final point. It is the case of Iran. Clearly, the issue of sanctions with respect to Iran helped bring Iran to the negotiating table and helped bring about the P5+1 nuclear agreement with Iran, but what we sometimes ignore and what remains sanitized has been the other fourfold criminal conduct of Iran.

• (1650)

When I say the other “fourfold”, in the first instance I'm referring to Iran as a leading state sponsor of international terrorism, and that is not because I say so, but because the U.S. State Department and others continue to say so.

Second is its regional hegemonic aggression, whether it be in Syria, Yemen, or Iraq and the like.

Third is its state-sanctioned incitement to genocide. I remind the members of this committee that it was the Supreme Court of this country in the Mugesera case in 2005 that held that the very incitement to genocide constitutes the crime in and of itself, whether or not acts of genocide follow, and therefore such global sanctioning legislation could also catch and hold to account those who engage in state-sanctioned incitement to genocide.

Finally, there's the massive domestic repression in Iran, whether it be the fact that Iran is the state that executes more people per capita than any other country in the world, whether it be its prosecution and persecution.... I can go on. You know it that Iran Accountability Week has demonstrated the like. The most disturbing, and indeed astonishing, datum in this regard, as a case study of the culture of impunity, is that the Minister of Justice of Iran, Mostafa Pourmohammadi, remains unsanctioned. He was responsible for the mass murder of dissidents in Iran in 1988, for which this Parliament declared September 1 to be political prisoner day in Iran. He continues to serve without having any sanctions in that regard. There are others I could mention, but for reasons of time, I will not.

Let me at this point conclude with the purposes of the sanctions regime in one-liners.

The witness testimony before this committee has stated that a sanctioning regime is basically organized for the purpose of securing three objectives: one, to coerce a change in behaviour; two, to constrain the activities of individuals or groups; and three, to signal a violation of international norms. However, somewhat ignored or marginalized are a number of other compelling purposes that underpin not only justice for Sergei Magnitsky legislation but my proposal that this Parliament enact a global justice accountability legislation that would be just as comprehensive and inclusive in holding global violators to account.

There would be a number of objectives. The first is to combat the persistent and pervasive culture of corruption, criminality, and impunity. The second is to deter thereby other would-be or prospective violators. The third is to make the Parliament of Canada a pursuant of international justice, just as we seek to be the pursuant of domestic justice. The fourth is to uphold the rule of law and justice and accountability in our own territory through visa bans and asset seizures and the like. The recent evidence of how Magnitsky assets have been laundered in Canada is but one case study of the importance of having this type of comprehensive legislation.

Fifth is to protect Canadian businesses operating abroad. Magnitsky uncovered the largest corporate tax fraud in Russian history, which was perpetrated against a U.K.-based entity, Hermitage Capital, so this type of legislation would protect not only the integrity of commerce in Canada, but also our Canadian businessmen operating abroad.

Sixth, it would operate so as to name and shame the human rights violators, because not only will they not be able to launder their assets, not only will they not be able to travel freely, not only will they not be able to send their children to schools abroad and the like, but banks will not lend to them and businesses will not deal with them. There will be serious reputation damage, and this will uphold the integrity of both the rule of law and the rule of commerce.

Seventh, such legislation would not bind the Canadian government; rather, it would empower the Canadian government. It would allow us to be a protector of human rights, and not an enabler of the violators of human rights.

Finally, and most importantly, it tells the human rights defenders, the Magnitskys of today in Russia or those in any of the other countries that I mentioned, such as Raif Badawi in Saudi Arabia or Leopoldo López in Venezuela or the Baha'i in Iran, that they are not alone, that we stand in solidarity with them, that we will not relent in our pursuit of justice for them, and that we will undertake our international responsibilities in the pursuit of justice and in the combatting of the culture of impunity and criminality in these respective countries.

•(1655)

Thank you, Mr. Chair.

The Vice-Chair (Mr. Dean Allison): Thank you, Mr. Cotler and Mr. Kasparov.

Let's get right to questions. We'll start with Mr. Kent, for six minutes.

Hon. Peter Kent (Thornhill, CPC): Thank you, Chair.

Thank you both for attending today. Thank you, Mr. Kasparov for your courageous defence of democracy, the rule of law, and truth, and Mr. Cotler, it is always an honour to share a room with you.

Mr. Kasparov, this committee has heard abundant testimony in support of the Magnitsky Act as originally proposed and in its different forms, and now in support of the Global Magnitsky Human Rights Accountability Act passed by the United States and the pending legislation in the U.K., but we've also heard opinions, shared by Canada's foreign affairs minister, that Canada doesn't need more sanctions and that dialogue is preferable.

At the same time, these voices suggested that Mr. Putin, for example, or other despots like him, would not change their ways because of sanctions. Earlier this week you said that the Magnitsky Act as it now exists in the United States, by cutting the freedom of Russia's kleptocrats, scares Mr. Putin. Did you mean that it does cause him uncertainty and fear?

•(1700)

Mr. Garry Kasparov: It must cause him uncertainty, because it undermines one of the fundamental rules of a mafia state.

Putin is not a democratically elected leader. He is a dictator whose rules are based very much on immunity that he provides for his enablers, for the Russian elite inside Russia. Also, after they commit crimes in Russia and steal money, they are able to keep this money in a safe harbour abroad.

Those are two very important elements of Putin's grip on power. He was seen as the only one who could guarantee such a comfortable scheme of getting rich and protecting their funds, and eventually even sending families to live comfortable lifestyles abroad.

Any meaningful act that will attack the interests of this group, the Russian elite, even at the mid-level, will have a dent. It could even be a massive dent in Putin's war chest, because the way the mafia operates is full loyalty for the boss in exchange for full protection. Every hit man must be protected.

I'm not saying that all these people committed really bad crimes, though in the case of Magnitsky we understand it was mind-boggling that Magnitsky was prosecuted posthumously for the crimes that he uncovered. That's why Putin and his cronies and his agents and his lobbyists were so aggressive in trying to repeal the Magnitsky Act. It is because it will hurt the very foundation of his so-called social contract with the Russian elite.

Would it lead immediately to his demise? I don't know, but I can tell you that the opposite is that if he sees any weakness, such as trying to repeal or even to soften the sanctions, that will be seen as his victory. The way Putin has been operating in the last few years, after his aggression in Ukraine and other aggressive foreign policy endeavours, has been to try to present himself to the Russian public, which lives under this 24/7 poisonous propaganda, as the only saviour of the country against global conspiracy. He knows that dictators can make many mistakes, except one: he cannot look weak. That's why he needs victories.

Unfortunately, now he is able to present many of his foreign policy acts, whether they were criminal—such as the annexation of Crimea or the war in eastern Ukraine, or other acts of meddling in elections and political life in Europe and America, or genocidal wars in Syria—as elements of his strength. That's why I keep repeating that anything that gets under the skin of a dictator, anything that makes him look weak, especially if it's a foreign-born defeat, is extremely valuable.

Hon. Peter Kent: We have learned that the National Crime Agency in the United Kingdom estimates that \$100 billion a year of ill-gotten funds pass through the United Kingdom. We have heard scepticism expressed before this committee that those sorts of funds are not likely to find a destination in Canada and that rights offenders from Russia are not likely to seek haven in Canada, despite the evidence. We also heard that Canada has a lack of capacity in prioritizing and trying to detect those funds or individuals.

Could you comment on that?

Mr. Garry Kasparov: Money is always looking for safe harbour. We are talking about hundreds of billions of dollars, if not more, of this money that will definitely be looking for a place to be invested. We know that for a long time the U.K. was one of the preferred destinations. We know that there are a few places in America, although the U.S. has always had tough regulations that made it more difficult. Dubai is another place where you can find tons of Russian money. Again, this money is welcomed there.

I would not be surprised if you eventually see Canada as a potential destination, especially if the Canadian government demonstrates a willingness to make a deal, any kind of deal, with Russia. That could be a signal to look at Canada as another safe haven.

Hon. Peter Kent: Thank you.

I have just one very brief question for Mr. Cotler.

In light of the House of Commons unanimous support on the Magnitsky Act in the motion last year, are you surprised by the position of Canada's foreign minister in opposing such legislation today?

• (1705)

Hon. Irwin Cotler: I don't understand that the foreign minister has opposed that legislation. From what I understand, he's waiting to see the outcome of the proceedings before this committee. This relates to your opening statement, which is an important one in a larger context, about engagement, let's say, with Russia or other human rights violators.

I think in the world in which we live we have to engage, and I support engagement, but it's not an either-or situation. It's not a question of engagement without sanctions or sanctions without engagement. I think we can both engage, as we need to do, and at the same time sanction, which may be necessary to do. It's not whether to engage, but how to engage.

Simply put, will we be indulgent of Putin's enablers, and thereby become enablers ourselves, however inadvertently, or will we hold the human rights violators to account, at least with respect to our own jurisdiction, in terms of whether they can travel here or launder their assets here? As Boris Nemtsov put it when he was here, and said it best, justice for Sergei Magnitsky legislation is pro-Russian legislation. It's legislation on behalf of the Russian people, but it holds the Russian violators to account.

The Vice-Chair (Mr. Dean Allison): Thank you, Mr. Cotler and Mr. Kent.

We'll move to Mr. Miller now, for six minutes, please.

Mr. Marc Miller (Ville-Marie—Le Sud-Ouest—Île-des-Sœurs, Lib.): Thank you both. It's great to have Canada's foremost human rights defender in front us, together with the world's greatest chess player. It's a true honour to be able to ask questions to you about this extremely compelling case and the bodies of legislation that we are studying.

For your benefit, there's no conclusion yet. We haven't finished our report and we haven't completed the witness testimony, but what we have been able to identify clearly is a gap in the ability to freeze assets of foreign nationals who have committed gross human rights violations. Now, proceeding from that premise or conclusion to putting that into effect is a lot more difficult than it seems at the outset. There are grave concerns in a pluralistic democracy with respect to the rule of law as understood in many facets, one of the facets being gathering evidence of those gross human rights violations. In the case at hand that you've mentioned, obviously there was a sufficient determination that those occurred. I'm not contesting that.

What I'm trying to ask, I guess, is about placing those into a body of law. We're concerned, obviously, with the rule of law, the ability of someone who is accused of these acts to appear and be able to plead their case. You are asking us to freeze assets of someone, assets that may be ill-gotten, in which case there's already a law in our Criminal Code that deals with that, or they may simply be assets that were acquired in a different manner. There are valuable arguments for freezing them as a deterrent, or as a moral imperative.

Mr. Cotler, you're a jurist and a pre-eminent lawyer. Essentially, what I would like to hear are your concerns for the rule of law.

Then Mr. Kasparov, what do you think the effect...? You mentioned earlier, when you responded to Mr. Kent, about the impact on Russia of this type of sanction by a country such as Canada, and the countermeasures that we need to be aware of if we're to enact this legislation vis-à-vis such a country, or indeed other countries.

Hon. Irwin Cotler: The type of legislation I proposed as a template seeks to amend SEMA and includes acting with respect to corrupt officials not simply by request but on our own initiative, but whatever sanctioning legislation is ultimately adopted, I think it's important that there also be a due process dimension to that legislation.

I don't think we can act peremptorily or arbitrarily. The whole point of the legislation is that we intend to act in accordance with the rule of law and to pursue justice internationally and domestically. The only way we can do that is if we give assurance that people have rights of redress with respect to that legislation. That is built into the bill that I provided. It's also in the legislation in the U.S. and in the U.K.

I think it is possible, on the one hand, to empower the Canadian government to act so as to combat impunity and at the same time to ensure that in the course of doing so, we provide appropriate notice, hearing, and rights for those who may be caught up in the orbit of that legislation.

• (1710)

Mr. Garry Kasparov: One thing I know from reading a few history books is that every delay in responding to a dictator—an aggressive dictator—pushes the price up.

When Boris Nemtsov was here—I don't know if he was in this room or somewhere else—arguing for the Magnitsky case, we lived in a different world. It was before the invasion of Ukraine, before the annexation of Crimea, and obviously before Boris Nemtsov was shot dead in front of the Kremlin. It tells you that Putin's regime is developing—I'm not sure this is the right word—is moving in one direction.

You talked about violation of laws, but we have to find a way to penalize Putin's regime for violating the fundamental international law that secured peace in Europe and in the rest of the world after 1945, which was that borders cannot be changed by force. There was only one case, when Saddam Hussein invaded Kuwait, and the international community had a forceful response.

If you pretend that annexation of Crimea is just a local affair between Russia and Ukraine or it's something that has no fundamental consequences for global security, then you're sending the message to Putin that all bets are off.

For those who are arguing that Ukraine is not NATO, yes, Ukraine is not NATO. I understand there are no obligations to defend Ukraine militarily. There are, of course, the Budapest memorandums, which had the signatures of the U.S. president and the British prime minister, alongside Boris Yeltsin's signature. This agreement was for an exchange of Ukrainian nukes, the third-largest nuclear arsenal in the world, for a Russian guarantee of territorial integrity.

When you basically invite Putin to test the resolve of the free world elsewhere, have no doubts that he will. The question is not if Putin will strike tomorrow or next month or next year; it's when and where he will strike, because he has made foreign policy aggression a staple of his domestic propaganda. He will need to feed the Russian public with this red beat of his global successes.

While I understand your concerns about intricate details of Canadian law, and obviously you don't want to make a mistake by hurting potentially innocent people, it's up to you to come up with a plan to protect the integrity and security of the world we live in. Unless you do something, Putin's war against the free world, Putin's policy of spreading chaos worldwide, will continue. He has proven to be a very good enabler of creating chaos, and unlike many other politicians, his counterparts in the free world, he does not play the game of small corners, but the geopolitical game. He understands that the Syrian refugees could help his buddies in Europe, all the fascist parties, to gain more popularity, because it shatters European political systems. It helps him to have more friends in power, and eventually will help him to lift sanctions, or to weaken them.

That's why I think it's up to you to decide how you want to oppose this aggression. However, you shouldn't argue whether you will inevitably face the ultimate challenge; the ultimate challenge could be when Putin will test your resolve in the Baltic states.

The Vice-Chair (Mr. Dean Allison): Thank you.

That's—

Mr. Garry Kasparov: It's not that difficult to imagine, since a KGB colonel who has a lot of experience in hybrid wars will try to make sure that NATO is nothing else but a paper title.

• (1715)

The Vice-Chair (Mr. Dean Allison): Thank you very much, Mr. Kasparov.

Mr. Miller, we're going to move over to Madam Laverdière for six minutes.

[*Translation*]

Ms. Hélène Laverdière (Laurier—Sainte-Marie, NDP): Thank you, Mr. Chair.

[*English*]

Thank you to you both for your impassioned and so well-informed presentations.

If I may say so, Mr. Kasparov, I heard in your presentation of Putin's moves the great chess mind behind this analysis of his various moves.

We've had testimony from people telling us that if we put sanctions on individuals, it will just increase the repression afterwards. I'd like you to comment on that.

Mr. Garry Kasparov: First of all, I want to defend the integrity of my game. I think calling Putin a chess player is a form of intellectual insult to the game of chess.

Ms. Hélène Laverdière: I'm sorry—

Mr. Garry Kasparov: No, no, as you can guess, it's not the first time I've had to confront the question by trying to defend vigorously the game that I've been playing for my entire life.

To be serious, chess is a game of strategy, and dictators don't play a strategic game. They're always very good in tactics. Strategy means you can think long term, while dictators care about survival.

Ms. Hélène Laverdière: Okay.

Mr. Garry Kasparov: Putin is a very good player, but I would rather call him a poker player. In poker, you can win by playing with a very weak hand, but you can bluff; you can raise the stakes, and you should be a good reader of opponents' minds. Again, he was a good KGB agent who proved to be a very efficient mind reader of many foreign leaders, winning their trust and their confidence, and eventually, of course, betraying them.

Putin always plays with a weak hand. Russia today is a pale shadow of the Soviet Union, militarily or economically, but Putin knows the rules of his gamesmanship: how to blackmail, how to intimidate, how to threaten. He always expects his opponents, even those having a very strong hand, to fold the cards.

Regarding my answer to your question about further repression, look, my friend Boris is dead. Most people who fought with me in Russia, those who were part of those big demonstrations in 2011-2012, are either in exile like me or in jail or worse. What is left in Russia is a very scarce group of people who represent no real danger to the regime, and that's why the regime allows them to just do little things.

We know that the Putin regime has reached the point where it will not go down from internal dissent unless it's being provoked by foreign-born defeat. It's like the Soviet Union retreating from Afghanistan. Unlike the Americans in 1975, the retreat was orderly. Russians were not fleeing Afghanistan, so there was no panic. They even left the Najibullah regime, the pro-Moscow regime there, for three more years. Still, what people in Poland, in Hungary, in Czechoslovakia, in the Baltic states, and even in Russia saw was that the empire was no longer striking. The empire was retreating. After February 15, 1989, how long did the Soviet Union survive? Not for long.

Anything that could help to demonstrate that Putin is not invincible, that Russia under Putin is not a global player but is a country that is suffering from a poor economy and deteriorating living standards, that only Putin's buddies and close friends could be beneficiaries of this corrupt, aggressive regime—anything that will weaken Putin's image in the eyes of ordinary Russians, but even more importantly, in the eyes of the Russian elite, may lead to unpredictable consequences.

I'm not telling you that I know when Putin is going to lose power. Most likely, for a dictator like Putin, losing power means losing everything else, so he's not going to retire. That's bad news. The good news is that he also doesn't know.

You can bring this moment closer. Again, you should not be afraid of warnings that if Putin goes down, it could be worse. What could be worse? When I hear this argument, my blood boils. You look at Syria. What could be worse? There are 500,000 dead, 10 million refugees. The European political system is in trouble. There's a rise of terrorism. What could be worse than stopping potential intervention in 2011 or 2012 because we were afraid of the consequences?

Yes, Putin's collapse means the collapse of the system, because it's a one-man show. It's not a politburo; it's just a one-man dictatorship. I would rather have some chaotic development instead of the quiet graveyard.

With Putin, we know the outcome. Every day he stays in power, he will inflict more damage to what is left of Russian society. He will continue his aggressive foreign policy, and God knows who will be the next target. He will not stop. There's no way that you can offer him some concessions or appeasement. He'll take it. He'll take it, and then he'll move on, because he has to move. It's a rule of his engagement. His survival will require more and more concessions, and at a certain point he will cross the border, and then you will have to be involved in a much bigger confrontation.

• (1720)

The Vice-Chair (Mr. Dean Allison): Thank you very much, Madame Laverdière.

We're going to move over to Mr. Saini, for six minutes, please.

Mr. Raj Saini (Kitchener Centre, Lib.): Thank you very much, gentlemen, for coming and for providing your very compelling testimony today.

Professor Cotler, I have two parts of a question for you, and this is to give us a bit of background on how we should approach this very challenging subject.

We've heard testimony that sanctions in the United Kingdom, even those that were put in place to comply with the United Nations Security Council, were being overturned due to a lack of due process. We know that although there are not any trials happening in Canada, there are still suits that are filed here.

Do you think there's a possibility of our having some sanctions challenged and overturned in Canada?

Hon. Irwin Cotler: I think whenever you have legislation that is either overbroad or unclear, then you run the risk of both a challenge and then the uncertainty of what a court might do. That's why I said that the issue of due process needs to be built into any sanctions legislation that we might seek to adopt.

Effectively, what I think we should be considering, as a parliamentary committee and then as a Parliament, is amending SEMA in three ways. Those three ways would address what is now a level of generality in SEMA itself, a lack of specificity as to what can trigger a sanctions regime. Again, when I say "trigger a sanctions regime", I'm not saying that the government then is compelled to enact that regime; it means it's empowered to do so where, in its judgment, it believes it is appropriate.

Now let me just give you three examples. The first thing is that we amend SEMA to sanction internationally recognized gross human rights violations. In other words, this would include responsibility for or complicity in—and I'll just borrow from my own legislation, but it's part of a template in that regard—"extrajudicial killings, torture or other gross violations of internationally recognized human rights committed against individuals in any foreign country". That's one. It's specific as to the human rights violations and it's included in the legislation, in SEMA, which now has it.

Second, we should amend SEMA so as to protect those individuals, like Magnitsky, those brave human rights defenders, be they in Russia or in Iran or in Turkey or wherever, who seek to expose illegal activity carried out by government officials, as Magnitsky did, or who seek to obtain, exercise, defend, or promote internationally recognized human rights and freedoms as Raif Badawi did in Saudi Arabia. That's the second thing.

Then the third thing—and this I link up here with Garry Kasparov—is that one of the worst horrors that we continue to experience is the ongoing war crimes and crimes against humanity daily in Syria. This has been going on now for five and a half years, since the scorched earth policy of Assad's regime began in March 2011, and it has continued, tragically, with impunity. I would like to also see SEMA amended to include both the preventing, if possible, and the sanctioning of mass atrocity crimes: war crimes, crimes against humanity, and ethnic cleansing and genocide. I know this is one of the recommendations made before you by one of the witnesses, Jared Genser. I would associate myself with that, because I think the responsibility to protect should also be written into this legislation.

• (1725)

Mr. Raj Saini: I want to raise another point with you, something you mentioned in your testimony when you talked about redress, and I want to talk about the concept of judicial review.

I'm sure you know that the United Nations appointed an ombudsperson, Kimberly Prost, to deal with the UN sanctions against the al Qaeda operatives. Do you feel that would merit something in our own domestic legislation to in some ways make sure that the legislation has teeth, but also to create a transparency and more legitimacy in the sanctions if they are ever applied? Do you think that's a concept we should look at?

Hon. Irwin Cotler: I think that if the legislation is crafted carefully, specifically both in its identification of the criminality to be sanctioned and in its identification of the remedies available from a due process point of view, then I think we can leave it to our governmental authorities and our Parliament and courts to address and redress any problems that may arise.

I read Kimberly Prost's submissions before you. I knew her well. We worked together in the Department of Justice when I was minister. I understand the reasons with respect to the ombudsperson and her particular situation and concern. I'm not sure it would be something that would be necessarily warranted in Canadian legislation, but it is something that can be explored.

The Vice-Chair (Mr. Dean Allison): Thank you.

We don't have a whole lot of time left but, Mr. Sidhu, we have you on the list. Why don't you ask a couple of questions before we have to wrap up?

Mr. Jati Sidhu (Mission—Matsqui—Fraser Canyon, Lib.): Thank you, Mr. Chair.

Thank you both for your testimony today. Let me start by thanking you, Mr. Cotler, for your service to this country. You were an MP for 11 years and a minister for a few years.

Since the landscape south of the border is changing and we are going to have a new president in January, I'm pretty sure the relations

with Russia are going to change. With your political background, what impact will this have on Canada, if any?

Hon. Irwin Cotler: It's hard to speculate, because one of the things about President-elect Trump is that he is unpredictable, particularly in matters relating to foreign policy.

With respect to the United States, given their system and the separation of powers, it is possible for Congress to do as they have done in 2012, which was to pass justice for Sergei Magnitsky legislation and have a documented list of those who cannot enter the U.S., who cannot launder their assets in the U.S., and the like. Similarly, the Global Magnitsky Human Rights Accountability Act has now passed Congress and will go to the Senate. The legislation can be adopted without the president, though clearly the president will have a role afterwards with respect to the bilateral relationships with the countries the violators come from.

I think global legislation makes it more effective, and one is not subject to the notion that you've singled out a particular country. This is not a matter of going against countries; it's a matter of going against human rights violators. It's a matter of supporting those countries in supporting the rule of law and justice and supporting the people of those countries, because you're going against the violators who have been enjoying impunity because of a culture of corruption or criminality.

In regard to President-elect Trump, first, I think we can be independent as a Parliament, as a government, and as a country, and enact our own global justice accountability legislation.

Second, I think that may send a signal to other countries in Europe to maybe do the same, and the European Parliament has already endorsed that approach.

Third, it could support the congressional action taken in the U.S., and that may buttress what President Trump might then decide to do in that regard. Let's look at it the other way round: Canada influencing others, rather than our being influenced by Trump.

• (1730)

The Vice-Chair (Mr. Dean Allison): Do you have a final thought?

Mr. Garry Kasparov: As you can guess, I was quite worried about Trump's consistency in praising Putin, because that was probably the only consistent line in his entire campaign, but we know this consistency could be short-lived, and I wouldn't make any predictions about U.S. foreign policy before we see who is nominated to be Secretary of State. Most of the names on the list are known for their quite hard stand against Russia, such as Ambassador Bolton, Governor Romney, and Senator Corker. Any of them, or even General Petraeus, will signal that Trump's relations with Putin may not develop the way Putin expected.

But again, with President-elect Trump I would be very cautious in saying anything before we see the nomination announced and then being approved by the Senate. I also see some names on the list that are making me much less comfortable.

The Vice-Chair (Mr. Dean Allison): Thank you.

Mr. Cotler, Mr. Kasparov, thank you very much. As usual, we could have had you for two or three hours, but we appreciate the short time we did have.

Mr. Garry Kasparov: I would like to submit this testimony.

The Vice-Chair (Mr. Dean Allison): Absolutely.

Mr. Garry Kasparov: Thank you very much.

The Vice-Chair (Mr. Dean Allison): That would be great. As we tell all our witnesses, if there's anything after the fact that you would like to submit to the committee, by all means do so. We'd love to see that. Thank you very much.

To the committee, thank you as well, and with that the meeting is adjourned.

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