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• (1110)

[English]

The Chair (Mr. Ali Ehsassi (Willowdale, Lib.)): I call the meeting to order.

Welcome to meeting number 58 of the Standing Committee on Foreign Affairs and International Development.

Today's meeting is taking place in a hybrid format, pursuant to the House order of June 23, 2022. Members are attending in person in the room, as well as remotely by using the Zoom application.

I'd like to make a few comments for the benefit of the members.

Please wait until I recognize you by name before speaking. For those participating by video conference, click on the microphone icon to activate your mike and please mute yourselves when you are not speaking.

Interpretation for those on Zoom is at the bottom of your screen, and you have a choice of either floor, English or French. Those in the room can use the earpiece and select the desired channel.

I remind you that all comments should be addressed through the chair.

Pursuant to the order of reference of Wednesday, November 16, 2022, the committee resumes consideration of Bill C-281, an act to amend the Department of Foreign Affairs, Trade and Development Act, the Justice for Victims of Corrupt Foreign Officials Act, the Broadcasting Act and the Prohibiting Cluster Munitions Act.

It is now my pleasure to welcome officials who will be supporting this clause-by-clause consideration of Bill C-281.

From the Department of Foreign Affairs, Trade and Development, we have Ms. Marie-Josée Langlois, the director general, strategic policy branch; Mr. Jeffrey Marder, the executive director of human rights and indigenous affairs; and Ms. Ashlyn Milligan, the acting executive director for non-proliferation, disarmament and space.

We have, from the Department of Canadian Heritage, Ms. Amy Awad, senior director, marketplace and legislative policy.

I'd like to provide members of the committee with some instructions and a few comments on how the committee will proceed with the clause-by-clause consideration of Bill C-281.

As the name indicates, this is an examination of all the clauses in the order in which they appear in the bill. I will call each clause successively, and each clause is subject to debate and a vote. If

there are amendments to the clause in question, I will recognize the member proposing it, who may explain it. The amendment will then be open for debate. When no further member wishes to intervene, the amendment will be voted on.

Amendments will be considered in the order in which they appear in the bill or in the package each member has received from the clerk.

Members should note that amendments must be submitted in writing to the clerk of the committee.

I will go slowly to allow all members to follow the proceedings properly. Amendments have been given an alphanumeric number in the top right corner to indicate which party submitted them. There is no need for a seconder to move an amendment. Once an amendment is moved, you will need unanimous consent to withdraw it.

During debate on an amendment, members are permitted to move subamendments. These subamendments must be submitted in writing. They do not require the approval of the mover of the amendment. Only one subamendment may be considered at a time, and that subamendment cannot be amended.

When a subamendment is moved to an amendment, it is voted on first. Then another subamendment may be moved, or the committee may consider the main amendment and vote on it.

Once every clause has been voted on, the committee will vote on the title and the bill itself, and if amendments are adopted, an order to reprint the bill may be required so that the House has a proper copy for use at report stage.

Finally, the committee will have to order the chair to report the bill to the House. That report contains only the text of any adopted amendments, as well as an indication of any deleted clauses.

At this point, allow me to thank the officials for their attendance and guidance during this clause-by-clause consideration of Bill C-281.

Each of you has received the package. It's fairly copious. It's about 30 pages. I would recommend everyone follow these.

Going to the agenda, we will go through clause-by-clause study. Pursuant to Standing Order 75(1), consideration of clause 1, which is the short title, will be postponed.

(On clause 2)

The Chair: Would anyone like to speak to clause 2?

Go ahead, Mr. Oliphant.

Hon. Robert Oliphant (Don Valley West, Lib.): I'm going to be proposing an amendment in clause 2. You will see that in the package as G-1, an amendment to clause 2, and I will read it into the record. I move:

That Bill C-281, in Clause 2, be amended by replacing line 9 on page 1 to line 2 on page 2 with the following:

(4) At least once in every calendar year, the Minister is to publish a report that outlines the measures that the Minister has taken to advance human rights internationally as part of Canada's foreign policy.

That is the amendment I am proposing. It is listed as G-1, as I said.

In support of that amendment, I want to reiterate that Canada is committed to supporting wholeheartedly the vital and courageous work of human rights defenders. I want to thank our officials who are with us today, who continually advise us on how we can best support those human rights defenders. However—and we heard this in testimony from more than one witness—if the government is required to publicize a list that sets out the names and circumstances of prisoners of conscience or human rights defenders who are detained anywhere in the world or persons detained in contravention to human rights standards, even while we are supporting them very, very strongly, it's not guaranteed that this will actually help them, and in fact we believe it could hinder their future.

A publicized list that sets out the names and circumstances of such prisoners of conscience or human rights defenders detained worldwide or of persons detained in contravention of human rights standards could actually impede our diplomatic actions and could cause them grave harm. Also, Canada's support for these individuals could potentially endanger their safety, and in more serious cases, could actually lead to their deaths. Moreover, the colloquial term "prisoner of conscience" does not have an agreed international or domestic legal definition, so we're concerned about that. It's even in lower case, as though we understand it; I think we have an intuitive sense of it, but this is a piece of legislation, not a report, Mr. Chair, and that's why we are concerned. We recommend that the listing requirement be removed.

We also heard from Alex Neve, formerly of Amnesty International, that it's not only the listing of people that could cause them harm, but that not listing others whom Canada is not necessarily engaged with but other countries may be engaged with could further their harm as well, because a government could then assume that they're not a prisoner of conscience because they're not on Canada's list, so we want to remove the listing requirement.

We recommend that the listing requirement be removed and replaced with generalized information on activities taken in support of human rights defenders in the annual human rights report. I would say too that I think the helpful part of the bill is requiring that report. We recognize it will take a lot of work and it will take

effort, but we think that is important. It could include reference to emblematic cases, cases that perhaps have been resolved satisfactorily or cases that have not been resolved satisfactorily, when there is consent from a number of parties, including the individual themselves and their family, and also include a contextual understanding of the nature of the incarceration or the detention. We want to do that so that no harm will be caused.

We recognize that there are families that would like the names of prisoners of conscience or human rights defenders to be listed. We recognize that this is something.... They can list them at any time in their own lives on social media or in broader media, but government has a different responsibility, and the government responsibility here is to ensure all of our activities will not cause harm but will actually help the people who we are trying to help.

● (1115)

We continually do these sorts of cases. I've been involved in a number of them myself when members of the opposition or members of our own caucus have come to us to ask for help with a particular case. It could be a Canadian who's detained. It could be a permanent resident of Canada who's detained. It could be a non-citizen who's detained, someone who has no relationship to Canada but is working as a human rights defender, or a journalist who is also a human rights defender, or anyone else.

The government takes that seriously. We work through our missions and through qualified personnel to do that, but we also recognize that megaphone diplomacy in this way is often counterproductive to what we all want to do, which is to protect their lives and also often to further their cause. Even if we disagree with their cause, we may want to always ensure that their lives are protected.

That's why we're moving G-1. It significantly reduces clause 2—I recognize that—but it will require the minister to publish a report that will show what the minister, whoever the minister is at any time, is doing to advance human rights as part of our foreign policy.

Those are my comments on G-1.

● (1120)

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

We now go to Mr. Genuis.

Mr. Garnett Genuis (Sherwood Park—Fort Saskatchewan, CPC): Thank you, Chair.

I will be brief. I agree with some of the things Mr. Oliphant said. I agree that there is some benefit to amending this section. We do not support the government's amendment here, though, as we feel that it wholly guts the section. We would prefer an amendment that provides some flexibility around listing but still requires the government to be more transparent around aspects that can be revealed.

In the vast majority of cases, having that information out there as a means of holding the government accountable and as a means of projecting the importance of these cases is valuable. We will be supportive of other amendments that make this section more flexible but don't go fully in the direction of gutting any requirement to provide any information whatsoever in relation to prisoners of conscience.

The Chair: We now go to Mr. Bergeron.

[*Translation*]

Mr. Stéphane Bergeron (Montarville, BQ): I will try to be brief. I simply want to say that I understand many of the points the honourable member is making, but for a variety of reasons, I won't be voting for the amendment.

First, some may view the amendment as an attempt by the government to reduce, rather than strengthen, accountability. In a democracy, that isn't a particularly good thing.

Second, Mr. Neve, for instance, was not opposed to the idea of publishing a list, far from it. Concerns have been raised about publishing a list like this, and we take those concerns seriously. I, myself, raised the issue with Mr. Neve. We are sensitive to those concerns, but an effort to minimize the content of a potential report on the measures taken to advance human rights internationally may be a bit much. I realize the amendment was deemed in order, but I still don't think it is in keeping with the spirit of the bill before us.

For those reasons, I will vote against this amendment.

[*English*]

The Chair: Would anyone else like to speak to this?

I do understand that a number of different amendments have been put forward with respect to clause 2. I have the benefit of having spoken to the legislative assistant, who I suspect is very well known to all of you.

I have been advised that if G-1 is adopted, NDP-1, CPC-1 and BQ-1 cannot be moved due to a line conflict, since any given line can be amended only once. I thought I would advise all the members of this point before we decide whether G-1 shall carry.

Go ahead, Mr. Oliphant.

Hon. Robert Oliphant: Further to our discussion on that, I recognize this.

I would like to give a chance.... There are two questions I have that I'm not sure we got from officials. We saw officials early in the consideration of the bill. I would turn to the officials to ask them—non-partisan officials—about their understanding of the implications of publishing a list of names of human rights defenders and prisoners of conscience whom Canada may be assisting.

Also, have they had discussions with the Privacy Commissioner? Perhaps our legislative counsel could help us understand whether there's been any consideration of privacy laws that could be implicated in those discussions.

Those are two questions I would ask, in order to help me understand this.

• (1125)

The Chair: Is there any particular official you had in mind, or should I just open it up to—

Hon. Robert Oliphant: I would say Mr. Marder, probably, but they can decide among themselves.

The Chair: Mr. Marder, the floor is yours.

Mr. Jeffrey Marder (Executive Director, Human Rights and Indigenous Affairs, Department of Foreign Affairs, Trade and Development): Thank you very much, Mr. Chair, for the questions.

As indicated, publishing a list.... Whenever Canada engages in support of human rights defenders or people imprisoned abroad in violation of international human rights standards, we do it in partnership with other countries or sometimes with civil society partners. The strategy to approach the engagement on each individual case is decided collectively, based on local situations and the particularities of each individual case.

Typically, we come up with a strategy based on opportunities for escalation. In some cases, indeed, if someone is imprisoned against their will abroad, it would be important to go public with that information. However, typically, we come up with a strategy based on an escalatory approach, potentially with naming an individual case as the final step.

Being forced to publish names in cases we were engaged on could threaten the actual engagement on the specific case. It could also jeopardize partnerships with other countries that are critical to our engaging on cases. If other countries partnering with Canada were aware that we would, by force or legislatively, be obligated to publish the names of individuals on whose behalf we were engaged, it could potentially make them more reluctant to engage with Canada collectively on supporting these cases.

Also, as indicated, we have not been in conversations with the Privacy Commissioner, but we would certainly have to be guided by the Privacy Act, which could place limits on the amount of information allowed to be divulged.

Basically, in terms of an overall strategy, which is guided by partnerships with other countries on the ground, being forced to proactively publish information on individual names could jeopardize those partnerships and our ability to engage effectively on cases.

I would note that quiet diplomacy should not be underestimated as a critical factor in engaging on individual cases. Some countries that typically would not be traditional partners of Canada—I would refer to them as “non-traditional partners”—take approaches that favour quiet diplomacy, as opposed to louder megaphone diplomacy. These sorts of broad partnerships, in many instances, are critical to effective engagement on individual cases. I would cede that those kinds of partnerships could be put particularly at risk by an obligation to publish not just names but also details of activities we were engaged on in individual cases.

The Chair: Thank you, Mr. Marder.

Would any other official like to speak to these two issues as well?

No. Okay.

Yes, go ahead, Mr. Oliphant.

Hon. Robert Oliphant: As a follow-up to that, I know there are a series of like-minded countries—I sometimes call them “the usual suspects”—that we engage with on these files. Then there are, as Mr. Marder said, other countries that may not be the usual partners that we engage with. In either of those types of countries, do we know of legislation that would require them to publish lists of people with whom they are working?

Mr. Jeffrey Marder: I am not aware of any legislative obligations to publish lists of names of people on whose behalf other governments are actively engaged.

I would note this: Many of you are probably familiar with the comprehensive human rights reports published every year by the State Department. These detail human rights situations in countries around the world. Based on my observations and my reading of many of those reports, I am not aware—other than emblematic cases, perhaps, which are broad public knowledge—of any detailed information on specific cases being acted upon.

The Chair: Now we will have to decide whether G-1 shall—

• (1130)

Mr. Sameer Zuberi (Pierrefonds—Dollard, Lib.): Mr. Chair, I have a question.

Let's say hypothetically that we enact this list right now—or in the future, I should say—and let's say that Canada is advocating on behalf of non-citizens. Given the information you have right now, do you think that the scope of this list would require us to put out the names of non-citizens, non-permanent residents and people who have no status in Canada, be it a visa, residency or citizenship? Let's say we're doing quiet diplomacy with other partners.

Mr. Jeffrey Marder: My understanding of the way it is written is that we would be required.... The requirement is to publish the lists of names of all—I think the term is “prisoners of conscience”—on whose behalf the Government of Canada is actively engaged to support them or seek their release. It seems quite clear-cut and broad.

Mr. Sameer Zuberi: To be clear, I guess that would include anybody, including non-citizens, non-permanent residents and people who don't have a visa in Canada.

Mr. Jeffrey Marder: That's my understanding.

The Chair: All right, so—

Mr. Sameer Zuberi: If I can opine slightly, we've heard a lot of testimony in this committee around the delicate nature of this issue, and all of us, I think, take this issue of championing and advocating for individuals in extremely oppressive circumstances very seriously. I'd ask the committee members to reflect upon the fact that if we publish those names, we may cause very serious and irreparable harm to them.

I would ask the committee members to err on the side of caution in this particular instance, given that it's a substantive change that can cause very serious damage to individuals, including their lives. Many of us around this table have advocated for individuals privately and publicly. That's not to take away from the intent of Mr. Lawrence's bill; it's just a reflection born out of the fruit of testimony. I personally am quite hesitant to vote in favour of the original text. I ask that we support this amendment as a result of that.

Thank you.

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

I think the other thing we should highlight, as Mr. Marder said, is that no other country is known to do otherwise and provide a full list of all the individuals who are being assisted and of the other countries that engage in terms of speaking up on their behalf, given that Canada likes to reach out to other like-minded countries to assist.

With that having been said—

Mr. Sameer Zuberi: I have one final thing.

The salutary aspect of this amendment is that it still requires a reporting mechanism. It still requires a reporting mechanism, which does advance the issue.

The Chair: Thank you, Mr. Zuberi.

Go ahead, Ms. McPherson.

Ms. Heather McPherson (Edmonton Strathcona, NDP): I think that there is a lot of support within the room for us to make some changes to the legislation. I don't think that there is support for the Liberals' amendment at this point. It is too broad. It is too overarching. I do think that perhaps we could have a short recess to just sort of talk through some of the amendments, but I also would be interested in knowing, Mr. Chair, if you've received any information that there may be challenges with any other of the amendments to this particular clause.

The Chair: Yes, there have been a number of other amendments that have been ruled out of scope by the legislative clerk.

Ms. Heather McPherson: Could you provide a little bit more detail about which amendments are going to be ruled out of scope? I think that is relevant because it will make a difference in how we choose to go forward.

The Chair: Let me turn to the legislative clerk.

The legislative clerk has advised that the routine approach to this is that an amendment has to be moved before any such information can be provided.

• (1135)

Ms. Heather McPherson: In the interest of producing the best piece of legislation we can, would you be willing to give us a two-minute suspension of the meeting so that we can discuss it further?

The Chair: Absolutely. I'll give you five minutes if need be.

Ms. Heather McPherson: Your five minutes is 10 minutes, so let's do my two minutes, which is your five minutes.

The Chair: That's fair enough. We'll suspend for two minutes.

• (1135)

(Pause)

• (1144)

The Chair: Go ahead, Ms. McPherson.

• (1145)

Ms. Heather McPherson: Mr. Chair, I would like to propose an amendment to G-1. I will read what the amendment would be:

That Bill C-281, in Clause 2, be amended by replacing line 12 on page 1 to line 2 on page 2 with the following:

“in every calendar year, a report that includes

(a) an outline of the measures that the Minister has taken to advance human rights internationally as part of Canada's foreign policy;

(b) a list that sets out the following information relating to prisoners who are detained or experiencing other treatment in contravention of international human rights standards and for whose release the Government of Canada is actively working:

(i) the number of prisoners detained by each government or detaining authority,

(ii) the circumstances of the detentions, and

(iii) the efforts that the Government of Canada has made to visit prisoners and to attend their trials or hearings, including the number of requests made for such visits and the responses of the detaining governments or authorities”.

Mr. Chair, I'm bringing this forward because I think what we see in this room is that the government has brought forward an amendment that would take out the obligation to provide a list. We agree that we need to protect the safety of those who might be on that list. I think nobody in this room wants to see prisoners or detainees harmed because they were included on the list. However, this does give us more of the information we require so that we as parliamentarians are able to do our job and that families are able to get the information they require.

This is very much based on some of the testimony we heard. Changing that list of names to the number of prisoners detained was suggested by Alex Neve. This is because of the fear that naming the prisoners could cause harm. It also gives us more accountability to those families, and that is something that we heard was sorely lacking with the government response to date.

Mr. Garnett Genuis: Chair, just on a point of order, could we get clarity on the text of the subamendment? Is it the same as the text of...?

Ms. Heather McPherson: It is, Chair. I apologize.

The Chair: Give it one more time.

Ms. Heather McPherson: It is as follows:

(c) a description of the efforts that the Minister has made to improve consistency and transparency in human rights advocacy and to improve accountability to the families of those detained and to civil society.”

My apologies, sir.

Hon. Robert Oliphant: I have a point of order that is not debate. This is a point of order maybe following on Mr. Genuis' point of order.

My problem is that it is presented as an amendment to the bill as it stands in clause 2, and yet now it doesn't really make sense because it's amending G-1.

I am having trouble rationalizing between the amendment of G-1 and the amendment of NDP-1 as though it's an amendment to G-1. I think this doesn't really work, because G-1 starts replacing from line 9, so that part would be removed, but the problem is that NDP-1 starts replacing from line 12. That's just one of the examples of the problem.

We're not necessarily opposed to it, but I would like you to rule on whether it's actually a subamendment—an amendment to the amendment—and whether or not it is in order in its scope.

The Chair: Thank you, Mr. Oliphant.

That's a very fair point. I understand the legislative clerk would like to speak to the technicalities of the issue as well.

Mr. Philippe Méla (Legislative Clerk): Thank you, Mr. Chair.

To Ms. McPherson, I had a question for you regarding your subamendment. Your subamendment should amend G-1 in one way or another. It seems that your subamendment is actually amending the text of the bill, but not G-1. That was the point that Mr. Oliphant was making, and I had the same issue with your subamendment.

Ms. Heather McPherson: I would be removing paragraph 4, the “at least once in every calendar year” in G-1, and then I would be replacing it with “in every calendar year, a report that includes.”

• (1150)

The Chair: We'll turn to the legislative clerk once again.

Mr. Philippe Méla: Thank you, Mr. Chair.

Ms. McPherson, that would not be considered a subamendment because you are replacing the amendment of the government by your own. The course of action would be to defeat the government amendment first and then propose your amendment after that.

The Chair: Go ahead, Mr. Zuberi.

Mr. Sameer Zuberi: Chair, I have a question, a point of order.

I'm just curious. If this amendment succeeds, will it be in scope in relation to the legislation?

I mean the subamendment.

The Chair: It's out of order. It does not exist.

Mr. Sameer Zuberi: It's out of order. My apologies. That's cool. Thank you.

The Chair: Did you want to ask the legislative clerk a question?

Mr. Sameer Zuberi: I will ask one as a hypothetical.

Mr. Philippe Méla: Thank you, Mr. Chair.

I'm not sure what the question is. Is it if G-1 is admissible? Is that the question?

Mr. Sameer Zuberi: I withdraw it. Thank you.

The Chair: Okay. Does G-1 carry?

Can we have a recorded vote, please, starting from Mr. Sarai, I believe?

(Amendment negated: nays 6; yeas 5)

The Chair: Thank you.

We now move to NDP amendment 1.

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

I think we all know what we're trying to incorporate into G-1 to make that fit. This is basically an attempt to protect people from being on the list if that is a situation that would cause danger to anyone. We did hear from Mr. Lawrence. We spoke to many families who wanted to have their loved ones on that list, but we also spoke to experts who said that it was dangerous. We heard from our experts today, who have said that there are situations in which quiet diplomacy is a much stronger approach to take to get help for individuals.

This is a way for us to still get the information that we require but that allows the government to have some anonymity for that. Really, this is two things. This is allowing us to get the information that we want but it is ensuring that there is accountability for the families and for civil society who are working so hard on behalf of detained individuals.

• (1155)

The Chair: Go ahead, Mr. Oliphant.

Hon. Robert Oliphant: Could I ask for the legislative clerk to advise us with respect to whether or not this amendment is in scope of the bill or outside the scope of the bill?

Then could I have a chair's ruling on that, please?

The Chair: Legislative clerk, would you like to speak to that?

Mr. Philippe Méla: I will defer to you, Mr. Chair.

The Chair: Clause 2 of Bill C-281 amends the Department of Foreign Affairs, Trade and Development Act to add an obligation to publish a report that lists the names and circumstances of prisoners of conscience detained worldwide for whose release the Government of Canada is actively working.

The amendment seeks to expand that list to all prisoners who are detained or experiencing other treatments in contravention of international human rights standards. Also, the amendment provides more accountability to the families of the detained and to civil society. These are new concepts not envisioned in the bill when it was originally adopted by the House at second reading.

As *House of Commons Procedure and Practice*, third edition, states on page 770, "An amendment to a bill that was referred to a committee after second reading is out of order if it is beyond the scope and principle of the bill."

In the opinion of the chair, and for the above-stated reason, the amendment is a new concept that is beyond the scope of the bill. Therefore, I rule the amendment inadmissible.

Go ahead, Ms. McPherson.

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

I don't agree with this ruling, with all due respect. One thing that I think has been missed here is that the "prisoners of conscience" description is being seen as something that I don't think it is. This was something that Alex Neve suggested made very good sense. It was within how we were working within the definitions.

From my perspective, it does not change the scope of the bill. I do really think that we need to have the ability to listen to the experts who came before us. We need the ability to change the language insofar as the "prisoner of conscience" phrasing is in place.

I don't want you to take this the wrong way, but I'm going to challenge the chair on this ruling.

The Chair: Are you appealing this decision? Are you challenging this decision?

Ms. Heather McPherson: Yes, I am challenging the decision.

Mr. Garnett Genuis: I have a point of order. I just want to understand a procedural issue.

This is very important. If the committee overturns the chair's ruling, it is still possible for the Speaker to rule the amendment out of scope when this bill goes to the House. If that happens, then are we automatically back to the original version of the section or is it possible for us to have an alternative amendment in the event that the Speaker rules it out of order?

I agree with Ms. McPherson's interpretation, but my concern is if we overturn the chair's ruling and then the Speaker overturns that, then we are in a position where we can't move further amendments to the section.

What does it revert to? Maybe we could get some guidance on that.

Mr. Philippe Méla: Thank you, Mr. Chair.

Yes, Mr. Genuis, you are quite right. If the decision is overturned today, once the bill goes back to the House at report stage, any member could raise a point of order in the House to challenge the fact that one or some amendments were ruled inadmissible. Even though they made their way to the reports, if the Speaker chooses to do so, he could rule the amendments also inadmissible. At that point, he may remove them from the reports and ask for a new reprint of the bill. We would go back to what the bill is now, unless there were other amendments adopted.

● (1200)

Ms. Heather McPherson: For some additional clarity, if that were the case, we would be able to bring amendments forward at that point. Is that correct?

Mr. Philippe Méla: It's hard to answer that question.

Usually at report stage, only amendments that are further amending amendments that were adopted in committee are permissible, to some extent. The note to Standing Order 75 basically says that what can be done in committee should be done in committee.

It's hard to answer your question on that issue.

Ms. Heather McPherson: If it is the will of the committee to overthrow the...

Voices: Oh, oh!

Ms. Heather McPherson: I would never dream...

If it is the will of the committee to overturn the decision of the chair, would that not be the will of the committee? It seems like that's contradictory. On the one hand, you can't change things that have happened in committee because the committee must do what can be done at committee, yet overturning the decision of committee doesn't allow committee to do what can be done in committee.

That's just the way it is.

Mr. Philippe Méla: I understand—

Mr. Garnett Genuis: On the point of order, just to follow up on the procedural question, if this amendment is passed by this committee, that would preclude other amendments from being moved. Then if we revert back to the original in the House, members may be able to make the argument that they weren't able to move amendments at committee and therefore they should be able to move them in the House, but we're into procedurally uncharted territory without precedent there.

Is that fair to say? Are there precedents of maybe the Speaker allowing report stage amendments to the original, given that those amendments couldn't have been moved at committee because other amendments were moved that were....

Maybe the answer is that we don't know. Are there precedents that can guide us here or not?

Mr. Philippe Méla: Thank you, Mr. Chair.

Being a legislator for quite a number of years, I don't have any examples for the question you are asking. However, the amendment that is before the committee right now was ruled inadmissible by the chair, so there would be an opportunity to move other amendments, unless the decision is overturned.

Hon. Robert Oliphant: On that point of order, it would seem to me that an understanding of the rules would be that if the House has adopted the bill at second reading and the committee does its work, amendments at report stage are generally, in my experience, restricted to amending the amendments that were made at committee, as opposed to that.

There are other avenues, I would think, that could be done.

My sense is that if the chair were overruled and this was put in order, we may find a way in this committee to pull it back into scope and have it stand.

Am I being a little cryptic? I'm trying not to be cryptic.

Ms. Heather McPherson: We'd change the amendment to be in scope.

Hon. Robert Oliphant: The reality is there is some common ground in here somewhere.

I think the government's and the Liberal caucus's position is that we think the bill as written is dangerous. We don't think it's neutral. We think it endangers lives. It's no less than that. That comes from our officials, who are professionals in this field. It comes from members of civil society who have cautioned us. Frankly, it comes very personally from my work in this, which I've been doing now for four years, working and negotiating with other countries—with like-minded and not like-minded countries—to save people's lives. In fact, we did that very recently with two non-Canadian citizens. Well, one was a permanent resident of Canada who was in a difficult, life-threatening situation. If that name had been published, we would not have saved his life. I am 100% sure of that.

We will do everything we can to find a way to enable transparency, but for us, the issue is not Parliament feeling good about what it's doing. That is absolutely offensive to some of us. It is absolutely trying to save people's lives. It's not about us.

I will go on at length about this. I think there is a way we could probably find a solution to this situation. I was very much open to a real amendment to G-1 and to find a way, but substituting NDP-1, which is out of scope, for G-1 is not the way to do it.

If we're now at the point where we've not yet defeated G-1, I think there is a way to appropriately amend G-1. That would be my first goal—

● (1205)

Ms. Heather McPherson: We did defeat G-1.

Hon. Robert Oliphant: Oh, yes, I'm sorry. We've defeated G-1. We can't go back to that one. We now have an out-of-scope amendment. Maybe there's another amendment that could be presented that we could find common ground on, but I also think that it is incumbent upon us to listen to experienced legislative counsel. The legislative clerk's job is to tell us those things.

I get a bit passionate about this because I do believe there are lives at stake.

The Chair: Before going to Mr. Bergeron—which we will—I just want to advise the members that should the members deem it necessary, we can rescind our decision on G-1. That's one thing for everyone to consider. I'm not saying we should do it; I'm saying that's one thing to consider.

Now we go to Mr. Bergeron.

[*Translation*]

Mr. Stéphane Bergeron: Thank you, Mr. Chair.

Mr. Oliphant, I genuinely believe that everyone around the table agrees that we shouldn't just put out a list of names without applying any parameters or safeguards. That would put lives in danger. I think all the members around the table want to find a solution.

The easiest thing to do may be to ask you whether you see a suitable option between CPC-1 and BQ-1. If so, we can vote right away. I think there's a willingness among opposition members to adopt one of those two amendments. Does one of them work for you? If so, I don't think it would take long to agree on the language for the necessary safeguards. That way, the government wouldn't have to list the names of people who shouldn't be named for their own safety.

[*English*]

The Chair: Go ahead, Mr. Oliphant.

Hon. Robert Oliphant: I believe it's still on the question of whether or not NDP-1 is in order. I'm going to be completely transparent on this now. Of all the amendments, G-1 is obviously our favourite, but we could support NDP-1, most likely. We may offer an amendment to it, but as a starting point, among NDP-1, CPC-1 and BQ-1, the one that we would find the most similar to our values would be NDP-1.

The only way to get there—you can tell—is to have the chair's ruling overturned and allow NDP-1 to be moved. Then we would work to amend NDP-1 to try to get to a position where we could all agree with it. That would be what we would do. I'm not advising you to overturn the chair. I'm just saying that this is probably our way through this.

Let me be clear and say that I've been a chair of a committee for many years. The reality is that the chair doesn't write those decisions; the legislative clerk writes those decisions. They're based on years of experience.

We still agree that it is out of scope, but if the ruling is overturned, we would find a way to work with that one to try to get consensus on how we have a better clause 2.

• (1210)

Mr. Sameer Zuberi: As a point of information, Chair, is this a dilatory motion that was put forth around the challenge to your ruling? You said that this amendment was out of order.

The Chair: It was out of scope.

Mr. Sameer Zuberi: Sorry; it was out of scope. Then there was a challenge put forth to that.

An hon. member: No, there was wasn't. We were discussing whether or not [*Inaudible—Editor*]

Mr. Sameer Zuberi: We were discussing it. Okay.

Hon. Robert Oliphant: Can I ask that we suspend for a few minutes to have a little conversation?

The Chair: Before we suspend, I will go to Ms. McPherson.

Ms. Heather McPherson: Mr. Clerk, you obviously know the challenges we're facing. I don't think any of us are being very secretive about this.

If we were to change back the “prisoners of conscience” and reword the obligation to communicate with families, would there be a way, or could you recommend a way, to make NDP-1 in scope?

The Chair: Go ahead, Mr. Clerk.

Mr. Philippe Méla: Thank you, Mr. Chair.

That question would be more for the legislative drafter. I can look at it once I have the final product in front of me. What you're saying as an option could possibly work, but then, if I had the text, I would feel more comfortable than having to provide you with the text in itself.

Ms. Heather McPherson: Just to clarify, we would then need to present you with another text.

Is it possible, Mr. Chair, that we could perhaps leave this clause, move to the next one and come back to this at a subsequent time?

The Chair: Will you provide the text by the end of today?

Ms. Heather McPherson: Yes, we can.

The Chair: The clerk has indicated that, yes, that is possible. He will make every effort to bring it within scope.

Can I actually suggest or recommend, because it's important that we do provide him the text for this, that we still suspend? We'll give everyone about five to 10 minutes to work something out. Then we'll come back and just skip clause 2 and go to the next one.

Go ahead, Mr. Oliphant.

Hon. Robert Oliphant: On a point of order, I just want to clarify whether the legislative clerk said that he would do what was required to put it in scope, as you just said. I think his job is to read what we have written, or what members of the committee have written, and then to evaluate whether it's in scope.

The Chair: That's correct, but just to accommodate that process, knowing how members' schedules work, I'm just saying we should try to get it figured out here today, if that's okay with the members.

Hon. Robert Oliphant: I think it might be more useful to leave this. Because this is an omnibus bill, it is not an act that is amending one bill. It's an act that's amending several bills. It does—even though I hate these kinds of bills—give us the chance to leave a section and go to another section quite independently because it's about another whole piece of legislation.

I think Ms. McPherson's suggestion of moving to another section of the bill makes some sense right now, because then I think we can have some discussion. We have some wording about how perhaps to help NDP-1 to be, in principle.... I still don't know whether it's in scope, because we haven't worked on that. We would actually ask the clerk to help us with an evaluation of scope later, but I think we need to work on some wording here to get that done.

• (1215)

The Chair: I completely understand everything that you have outlined, Mr. Oliphant. I'm just wondering if you want to do it here today, or did you want to leave it until after one o'clock?

Ms. Heather McPherson: I don't think there's anything right now that we can look at.

The Chair: Okay.

Ms. Heather McPherson: Our teams can start working together on that, and maybe later on in this meeting, but at this moment I don't think it makes sense, because we don't have anything.

The Chair: Absolutely, so there's no need to suspend.

Ms. Heather McPherson: No.

The Chair: Is there unanimous consent that we skip over clause 2 and move to the next clause?

We have Mr. Bergeron.

[*Translation*]

Mr. Stéphane Bergeron: Shouldn't we first vote on whether to overturn your ruling, Mr. Chair?

[*English*]

The Chair: No, I don't believe so. The clerk has advised that Ms. McPherson did not actually challenge.

Ms. Heather McPherson: I threatened to overthrow.

Some hon. members: Oh, oh!

The Chair: Go ahead, Mr. Oliphant.

Hon. Robert Oliphant: I think the wording was a challenge, but if she's saying that she's not challenging it yet, then we have a bit of time.

On this—and I raise a point of order in getting advice and counsel from the legislative clerk with respect to standing—we have an order on the agenda with respect to the amendments that are coming in. Do we need to vote on the actual changing of the agenda to allow those to stand and then to move to another one?

The Chair: No.

Hon. Robert Oliphant: So it's up to you...?

The Chair: Yes.

Hon. Robert Oliphant: It's up to the chair, then.

That's good. Okay.

The Chair: Okay. Now we move to—

Mr. Garnett Genuis: Mr. Chair, I will move CPC-2, which is for new clause 2.1.

Hon. Robert Oliphant: Mr. Chair, I would think it would be helpful if we moved CPC-2 after we dealt with all of clause 2 so we understand where we're at with respect to that piece of legislation. I know they're not exactly related, but I think it would be helpful if we moved instead to the second part of the bill and went into CPC-3 and that part. I think that's where we start with the sanctions part.

Mr. Garnett Genuis: Clause 2.1 is not related to clause 2 at all. It's just numbered that way because it comes next. It's in relation to the obligations to respond to a committee report. It's not in any way in relation to the subject matter of clause 2.

I don't really care, but for the sake of argument, it makes sense to go to clause 2.1 if we're going to go in order otherwise.

• (1220)

[*Translation*]

Mr. Stéphane Bergeron: I'm assuming that Mr. Genuis's motion has indeed been moved and can therefore be debated.

Mr. Chair, I see there's an amending subsection—

Hon. Robert Oliphant: Forgive me for interrupting, Mr. Bergeron.

[*English*]

On a point of order, I just want to ensure—it was moved, but I want to make sure that the chair has ruled that amendment CPC-2 is in scope.

A voice: We can get to that after we hear from Mr. Bergeron.

Hon. Robert Oliphant: No, we can't. We can't, because we have to rule first on whether or not it's in scope before we can debate it.

The Chair: Absolutely, if that's okay, Mr. Bergeron.

Having reviewed amendment CPC-2 on clause 2 of Bill C-281—

Mr. Garnett Genuis: Chair, on a point of order, I haven't spoken to it yet—

The Chair: So you haven't moved it or you—

Mr. Garnett Genuis: I want to confirm that we were proceeding to that section. I would like to say a few words about it before....

The Chair: Absolutely. Fair enough.

Mr. Garnett Genuis: Really briefly, Chair, this amendment is designed to allow a parliamentary committee to call for a state to be added under the State Immunity Act. Having it listed among the states would then allow action to be taken in terms of a state that's a state sponsor of terror. Many would argue that there are states that are sponsors of terror that have not been thus listed, so this would create a mechanism for a parliamentary committee to call for that listing, and it does align with other provisions of the act that involve similar accountability.

That is the amendment. It's long. I won't read it, but that's what the amendment is about. It is important and relates to the other provisions of the bill around accountability to Parliament on human rights issues.

The Chair: Thank you, Mr. Genuis.

Given that you have moved clause 2, clause 2 of Bill C-281 amends the Department of Foreign Affairs, Trade and Development Act, to add an obligation to publish a report outlining measures taken by the minister to advance human rights internationally as part of Canada's foreign policy and lists seeing the names and circumstances of prisoners of conscience detained worldwide for whose release the Government of Canada is actively working.

The amendment seeks to add a new obligation on the minister in the case of a motion adopted by a committee of the Senate, of the House of Commons or of both Houses of Parliament recommending that an order be considered or made under subsection 6.1(2) of the State Immunity Act in relation to a foreign state, to prepare a response advising the committee as to whether or not the order is to be made and setting out the reasons for the decision to the minister to consider or make an order.

This is a new concept, not envisioned in the bill when it was adopted by the House at second reading. As *House of Commons Procedure and Practice*, third edition, states on page 770, "An amendment to a bill that was referred to a committee after second reading is out of order if it is beyond the scope and principle of the bill."

In the opinion of the chair and for the above-stated reason, the amendment is a new concept that is beyond the scope of the bill. Therefore I rule the amendment inadmissible.

Thank you.

Do you want to challenge it?

Mr. Garnett Genuis: You're eager to be challenged, Mr. Chair.

Actually, I would be happy to proceed to move CPC-3.

(On clause 3)

• (1225)

The Chair: Okay. That's fair enough. Thank you.

We now go to CPC-3.

Mr. Garnett Genuis: The bill as written says that if a committee passes a motion calling for an individual to be sanctioned or for the government to report on an individual being sanctioned, if that committee is a committee responsible for matters related to foreign affairs, the minister has to provide a response in the format prescribed.

What we're proposing to do with this amendment is remove the requirement that it only be a committee dealing with foreign affairs. It has come to our attention since the original drafting that there are other committees that may deal with sanctions issues, and they want to make a recommendation like this. I think the most obvious one would be the justice committee. The justice committee is not responsible for matters related to foreign affairs in particular, but it would look at issues related to sanctions. There might be other committees in the course of their work—perhaps status of women and finance, etc.—that want to make recommendations for individuals who would be sanctioned. We propose to broaden the section to allow any committee to make that recommendation.

I know there were some other proposals for amendments to this section. We have another amendment to propose, but for now this is the amendment that we're moving.

Thank you.

The Chair: Go ahead, Mr. Oliphant.

Hon. Robert Oliphant: We have concerns about this amendment. The concern would be, generally, that we think sanctions are not a stand-alone item but are put in the context of foreign policy, and they should be integrated into everything we do. They should really be considered by the committee that has the mandate and responsibility from the House of Commons to do foreign policy.

We can live with this. We don't think it's advisable and we don't think it's a good thing, but we recognize that we can go with it. We think it should be here, at this committee, where we have a robust and comprehensive view on foreign policy and put it together, but we will be able to support this as a measure of goodwill.

The Chair: Does anyone else want to speak to CPC-3?

(Amendment agreed to: yeas 11; nays 0 [*See Minutes of Proceedings*])

Mr. Garnett Genuis: Thank you, Mr. Chair. I'd like to now move CPC-4.

CPC-4 is mainly a cleanup-oriented amendment that reflects some issues that were raised by government members in questions. This is my turn to have a show of goodwill for Mr. Oliphant.

It makes two changes—

The Chair: Mr. Genuis, if I may, there is a G-1.1 amendment, as well, prior to CPC-4.

Mr. Garnett Genuis: We haven't received that in our package.

The Chair: It was sent this morning.

Mr. Garnett Genuis: Do you have copies to distribute? Okay.

Even though I had the floor and tried to move it, I can't move it if it's out of order. Is that the way this works?

The Chair: Yes.

• (1230)

Mr. Garnett Genuis: Chair, my view would be that I had the floor and I moved the amendment. I wasn't aware that there was a last-minute one here. However, I think that since I was given the floor and I moved my amendment, then my amendment is on the floor.

The Chair: I am advised that you should not have moved it in the first place, so we have to go by the order that was originally indicated.

Mr. Garnett Genuis: Maybe I should not have moved it, but I have moved it. That has now occurred.

Hon. Robert Oliphant: I have a point of order.

The chair could rule that as inadmissible because he—

The Chair: Yes, that's inadmissible. Let's go back to G-1.1.

Go ahead, Mr. Bergeron.

[*Translation*]

Mr. Stéphane Bergeron: I have a point of order, Mr. Chair.

I just need you to explain why this new, last-minute, amendment takes precedence over the amendment the member was trying to move.

[*English*]

The Chair: Go ahead, Mr. Oliphant.

Hon. Robert Oliphant: If I could speak on that point of order—

[*Translation*]

Mr. Stéphane Bergeron: Mr. Chair, I wasn't asking Mr. Oliphant.

[*English*]

Hon. Robert Oliphant: Mr. Chair, if it's a point of order, I can do a point of order.

The Chair: The legislative clerk will answer your inquiry.

Mr. Philippe Méla: Thank you, Mr. Chair.

[*Translation*]

Mr. Bergeron, the new amendment that came in this morning amends lines 14 to 31 on page 2. Mr. Genuis's amendment amends line 15. Since amendments are always taken up in the order of the lines in the bill that they propose to amend, we have to deal with government amendment 1.1 first because line 14 comes before line 15.

Mr. Stéphane Bergeron: Thank you.

Mr. Philippe Méla: You're welcome.

[*English*]

The Chair: Go ahead, Mr. Oliphant.

Hon. Robert Oliphant: I thought it was a point of order; therefore, I was going to respond to the point of order, but I don't need to, because the clerk has responded, unless the point of order is continuing.

The Chair: I don't believe it is. Mr. Bergeron, are you satisfied?

[*Translation*]

Mr. Stéphane Bergeron: Yes.

[*English*]

The Chair: Okay.

Go ahead, Mr. Oliphant.

Hon. Robert Oliphant: Thank you, Mr. Chair.

I have the floor.

I move that—

Mr. Garnett Genuis: I have a point of order.

Is my amendment on the floor or not? It's fine. I just don't understand if it was on the floor or not.

Was it not on the floor? Could it not be moved?

The Chair: Yes. It is the chair's prerogative to go back to what should have been the appropriate way of proceeding.

Go ahead, Mr. Oliphant.

Hon. Robert Oliphant: Thank you, Mr. Chair.

I move, and this would be G-1.1 or G-1(a):

that Bill C-281, in Clause 3, be amended by replacing lines 14 to 31 on page 2 with the following:

ister must table a response in accordance with the Standing Orders of the House of Commons or the rules of the Senate that apply to government responses to committee reports.

What we're attempting to do is to harmonize the way the government would respond to this committee so that it would respond as it would respond to any other report from this committee or to any other report from any other committee, so that there is some predictability. Also, as the Standing Orders evolve, which they do, we would simply always be in line with the Standing Orders, as opposed to having a stand-alone procedure that doesn't necessarily add to predictability or add to the good and strong functioning of the House of Commons or the Senate. That's why we are attempting to harmonize this with the other reports that would be made to the House of Commons.

• (1235)

The Chair: Yes, go ahead, Mr. Genuis.

Mr. Garnett Genuis: Chair, I suppose the committee will then have to ultimately determine if they want to adopt Mr. Oliphant's amendment or the amendment I proposed, or neither, but I will be moving the amendment I thought I had moved after this one is disposed of, if I am able to.

The original version of the legislation has a mechanism that prevents the government from using prorogation or dissolution to get around responding to this report. Normally, the process in the Standing Orders is that the Standing Orders apply unless a Parliament is dissolved or prorogued.

The original language in the bill says:

If Parliament is prorogued or dissolved before the response is tabled, the Minister must post the response in a prominent location on the website of the Department of Foreign Affairs, Trade and Development within the time limit referred to in subsection (2) regarding the tabling of the response. The response must be tabled as soon as feasible after the commencement of the next session of Parliament.

It means that if a committee makes a recommendation, the government does have to provide a response. The amended version would also set out a requirement for the government to be substantive in that response and to provide reasons around their decisions.

Effectively, this government amendment guts the existing proposal because it simply says that the government has to comply with the Standing Orders. Well, the government has to comply with the Standing Orders anyway. There's hardly any point in putting this in legislation. It's not about harmonizing anything; it's about removing any substantive effect of this section.

What we would like to see is a meaningful parliamentary trigger that the government can't avoid through prorogation or dissolution that applies regardless, one that gives the committee some flexibility of setting a timeline that's urgent. I know that there was a concern about the 40-day timeline and whether it's appropriate. My amendment proposes to remove the 40-day requirement and leave it entirely up to the committee to set a timeline that's appropriate under the circumstances. It also proposes to address any concerns about giving information in advance of sanctions that might be coming.

The amendment we were going to propose cleans up those issues. Again, what we're seeing with this amendment is fundamentally a gutting of any substance to the provision, and the revised version would say that the government has to follow the Standing Orders.

I would encourage the committee to take a stand for an effective parliamentary trigger to defeat this amendment and then to subsequently deliberate the alternative we would like to propose.

Thank you.

The Chair: You are correct. In the event that G-1.1 is adopted, CPC-4 cannot be moved due to a line conflict, since any given line can only be amended once.

Go ahead, Mr. Oliphant.

Hon. Robert Oliphant: To be really clear, in fact there is no intent on our side to circumvent anything to prevent this activity from happening. Our concern is that....

Prorogation is a tool that has been used by successive governments, as dissolution also is the allowance of the people of Canada to speak. That is what happens. The reality is that we attempt during dissolution to not engage in certain activities. We move into a caretaker government mode, and I think that is something all of us need to respect, because it is part of the parliamentary process.

The case I would need to hear is why this is significantly different from every other piece of work done by Parliament. That case has not been made for me. This is important work, but so is every other single piece of work that Parliament does. The case needs to be made for why this is unusual, why it is different from other pieces of legislation that arrive from private members, from public bills, from the Senate or from government legislation, why it is different from every other report that is tabled in a response from the government to committees that are as important as our committee. I think that case needs to be made, because I think there's a supremacy being put on this that is inappropriate and belittles the work of other committees and other groups.

• (1240)

If that case can be made, I'm willing to listen to it, but I don't believe it's been made. That's why I think the standing order should prevail and we should treat this as ordinary parliamentary work that is embedded in our lives and gets done appropriately.

A significant issue we have is with the 40 days. We heard from government officials that this would be problematic for them. I respect our public servants, and that's why I think we need to listen to them, but that's not the only issue here. Part of the issue is that 120 days is our norm.

Generally speaking, we think the Standing Orders should be followed because every committee follows them and every parliamentarian is subject to them, and I just believe government and Parliament work better that way.

The Chair: Go ahead, Mr. Genuis.

Mr. Garnett Genuis: Thank you, Chair.

Respectfully, I'll respond to a few of the points that were made.

Mr. Oliphant said that it's not the intention of the government to avoid this reporting requirement through prorogation or anything like that. I know there's a lot of curiosity around here about intentions regarding prorogation, but I won't speculate about that either.

The point of this legislation is—

Hon. Robert Oliphant: I have a point of order.

Some of us lived through the longest prorogation done to save a government. Mr. Chong and I were there at the time.

Mr. Garnett Genuis: That was meant to be lighthearted, Mr. Oliphant. Clearly I failed at being lighthearted.

The point is that this legislation is designed to be timeless. It's designed to bind governments of all stripes and ensure that any government of any stripe will have the accountability requirements associated with this parliamentary trigger. I think that's important.

In terms of the 40 days, again I would like to move an amendment that responds to that concern. I will if I'm able.

To the question of what the difference is here between the work of other committees, I would be very open to a broader conversation about beefing up the requirement around government responses. Too often, we get government responses to committee reports in which the government "takes note of this recommendation". A government response shouldn't be, "Yep, we read it; we'll think about it." It should provide some degree of substantive response. In this particular case, if the amendment is defeated, this provision would beef up that requirement.

There's an argument to be made that this could be done in other cases, but there's no reason not to do it in this case. If we simply gut this, as proposed, then we're back to a situation in which a committee makes recommendations and the government can say that it takes note of those recommendations.

Well, that's great, but what we think is important for meaningful accountability is a parliamentary trigger for sanctions, like those that exist in other jurisdictions, such as the United States, for example. It's so that if Parliament thinks it's important enough to say that this person should be sanctioned, the government has to provide a response explaining why they have taken a decision one way or the other. That response has to be provided. It can't be avoided through prorogation. I think that makes this a meaningful check on government. It's one that I think members will find useful, regardless of who the minister or who the government is.

The Chair: Thank you, Mr. Genuis.

Mr. Sarai is next.

Mr. Randeep Sarai (Surrey Centre, Lib.): I was just wondering if I could ask the officials how they respond to committee reports, as they'd need to make their best effort to respond comprehensively. Is that something that you have to do?

Ms. Marie-Josée Langlois (Director General, Strategic Policy Branch, Department of Foreign Affairs, Trade and Development): Shall I just go ahead, Mr. Chair?

• (1245)

The Chair: Yes, Ms. Langlois.

Ms. Marie-Josée Langlois: Thank you, Mr. Chair.

Thank you for the question.

Of course, the government always welcomes the discussions of the committees and the parliamentary committees and the evaluation and information that are shared with us.

When we receive recommendations from committees, of course we very seriously review and assess them. Many aspects are taken into consideration. I can speak for sanctions. These include policy considerations and legal consideration. It includes foreign policy and sometimes discussions with others, as well as the evaluation of whether there's sufficient open-source reliable evidence that we can

find on the situation at hand. All of these are factored into our responses.

Mr. Sameer Zuberi: Mr. Chair, may I, through you?

The Chair: Yes, of course.

Mr. Sameer Zuberi: Through you, again to Madame Langlois, I'd like to follow up on what you mentioned in terms of the breadth, scope and robustness of the response you can give to a committee.

If we have a 40-day versus a 120-day limit, is there a material difference in terms of the robustness of the response you can give to a committee with respect to quality, thoroughness, etc.?

Ms. Marie-Josée Langlois: Thank you, Chair.

The more time there is, of course, the more helpful it is to find more information. Open-source reliable information can be hard to find in certain circumstances, so the more time there is, of course, the better it is for us in terms of a straight and deep evaluation of the situation at hand.

Mr. Sameer Zuberi: To follow up on that, would the committee be missing lots of elements if you had only 40 days versus 120 days in terms of the response that we need to do our work?

Ms. Marie-Josée Langlois: In certain circumstances, it can be very difficult to find information, as I mentioned, in terms of what is available. Also in terms of engagement with internal partners and in government, or with outside partners internationally, having more time is always very useful. Forty days could be difficult in certain circumstances.

The Chair: Go ahead, Mr. Genuis.

Mr. Garnett Genuis: I'll underline that the amendment that we have put forward already addresses the issue of 40 days. It already eliminates the 40-day requirement. That's not an issue.

The Chair: Go ahead, Mr. Oliphant.

Hon. Robert Oliphant: I want to ask the officials if they have any comments on caretaker government status. What happens during caretaker governments after dissolution? What goes on during that period, and does it affect this or not?

Ms. Marie-Josée Langlois: From experience, when there's dissolution, when they're in caretaker mode, every decision is considered and is framed by the convention that applies during that period, so it's difficult for us to do the same breadth of work in terms of ensuring that only those things that are essential go forward.

The Chair: Go ahead, Mr. Genuis.

Mr. Garnett Genuis: I would say briefly on the caretaker government issue that foreign affairs in particular is something that has to continue during a dissolution. The foreign affairs minister is still the foreign affairs minister, the government is still the government, and the government has to act and respond to international crises. That should include the application of sanctions and therefore should include reporting on sanctions. It should be very clear that this work has to continue through that period.

Again, we don't want to see governments avoid the need to report when asked to by committee. We think the provision of reasons and the posting of that information on a website in case one of those can't be tabled in Parliament is an appropriate accountability measure. I think the points have been made on this.

The Chair: Go ahead, Mr. Oliphant.

Hon. Robert Oliphant: I would add that in my experience after two elections, two dissolutions, having been parliamentary secretary of foreign affairs, my job stopped immediately the day the election was called, because parliamentary secretaries' jobs stop. The ministers do continue, however, in a very limited fashion. There are firewalls put up all over the place about what ministers can even know during an election period. It's very much a crisis-oriented moment. That's all there is.

• (1250)

The Chair: Thank you for that.

Mr. McKay is next.

Hon. John McKay (Scarborough—Guildwood, Lib.): May I ask the officials how other nations deal with this kind of situation? Do you have any comparators?

Ms. Marie-Josée Langlois: If I may ask, is this for a clarification on sanctions in terms of evaluation? I see it is.

As you know, there are different systems across different countries, and the legal basis of those systems will affect how they deal with different discussions on sanctions.

In the U.K., we understand that there are a lot of discussions in Parliament, but as such, parliamentary committees just simply use regular means to express their views to the government, and the government will respond.

In the U.S., the division of power is very different in that context. Bills can be moved by different parts of the Congress, so those discussions will vary a lot. What has been happening over the years is that it is often through executive orders by the administration that sanctions decisions are made.

In terms of the EU, again it's complicated by the different levels of intervention in terms of competence, if you like, and in terms of the sanctions responsibilities. In the EU, there is the commission that deals with external matters and the European Union itself, but there's a big role given to the member states. The member states need to put forward proposals for discussion. It goes through various levels of committees and discussions in the EU, depending on whether there are trade elements that can go to different committees, so in the end, those discussions are more complex for them because they have many members and consensus must be obtained. Then you have a process that goes forward through all those committees by consensus and that comes, in the end, with recommendations for decisions.

Once sanctions are agreed to, the implementation goes to the member states. The member states themselves have to put in place the sanctions or put the implementation measures in place.

That's a general overview of our key like-minded partners on autonomous sanctions.

Hon. John McKay: Are there differential binding elements on the nation states of the EU for a sanctions package? If the European Parliament adopts a sanctions package, for instance, it's not clear to me how that package is binding on, say, Germany or Hungary. Is there a separate assumption process?

Ms. Marie-Josée Langlois: I can give you a high-level overview, but I'd be happy to follow it with more precision, if you like, afterward.

From what I understand, once the sanctions announcements are made or approved by consensus—and they're made at the EU level—they are applicable in all the member states. However, in terms of implementation, each member state has to take its own steps in terms of implementation. This is due to the different types of competence in the EU system, with external affairs being at the EU level and the implementation at the domestic level. Anything, for example, that would deal with customs measures that need to be put in place would be put in place at the country level, at the member level, rather than across the board. Once there is a decision to impose sanctions, while it is effective for all member states, further steps need to be taken by the different member countries.

Hon. John McKay: I don't wish to prolong this issue, Mr. Chair, but it is an opportunity. One of the issues that I've been approached about is the coordination of sanctions and how some countries do this and some countries do that. We read the headlines: "EU adopts sanctions", we'll say—Magnitsky sanctions. The way you're describing it to me is that those individual nation states that constitute the European Union have to individually make decisions to adopt that package of Magnitsky sanctions. What's not clear to me is whether there are holes in that system, and because there are holes in the system, there are holes everywhere else.

As I said, I don't want to take up the time of the committee, but this is pretty significant, because we think that we've done things when in fact we may not have done things.

I'll leave you to give a final comment on that, and I'll then turn it back to the committee.

Sorry, Mr. Chair.

• (1255)

Ms. Marie-Josée Langlois: In terms of the implementation, yes, it's incumbent on all the member states to decide how they coordinate. If there are two levels of coordination, they will do it among themselves.

You also touched on coordination among countries across discussions internationally. That coordination happens as well, which can take a lot of time in terms of... As you know, sanctions are most effective when we move together, so we try to have discussions to ensure that when we have common interests, we can work together to align them.

In this case, you would have, potentially, international discussions among Canada, the United States, EU members, etc., and then the EU members would themselves regroup and decide on what their best approach is, just like we would do in Canada with other departments in terms of deciding what the best Canadian approach would be.

Those different types of levels of discussions take time, yes.

The Chair: We'll now go to Mr. Sarai before going to Mr. Bergeron.

Mr. Randeep Sarai: Maybe you can tell us.... We're thinking of, or have on our list of things to do, a sanctions report.

Would this type of topic be better discussed and fleshed out in a study on the sanctions regime itself and how these sanctions could be enabled, how effective they are, what their process is, what process can we streamline better, etc.?

Can you elaborate?

Ms. Marie-Josée Langlois: Yes, we certainly welcome engagement with committees and the discussions. A sanctions report would have to be.... If I understand what you're describing, it would be fairly broad, so we would need some time to evaluate and assess it. We'd be happy to continue the discussion.

We note that right now, the Senate is working on its own report and some of its views and recommendations. We'd be happy to engage in that context here with the committee, if there is an interest in discussing sanctions further.

If it's the broad scope of sanctions—from how we make them, all the way to implementation—of course, that would be more in depth and it would take a bit more time from our side, but we'd be happy to do that.

Mr. Randeep Sarai: What is the Senate studying right now? What do they have before them?

Ms. Marie-Josée Langlois: The Senate has been working on a review of the sanctions legislation and will be putting forth a report and recommendations later on. The timing is to be determined, but that should be coming.

Mr. Randeep Sarai: Are you suggesting that it would be smart of us to wait for that report to be done? I know it's not in your purview necessarily, but could you opine on that?

Ms. Marie-Josée Langlois: I'm sorry. There's a lot of noise. Could you repeat the question?

Mr. Randeep Sarai: Are you suggesting that we wait for that study to be completed, so that we can opine on it afterwards? Is that what your suggestion is, not as an official but as an individual? Could you shed some light on that?

Ms. Marie-Josée Langlois: I wouldn't opine on that. The report will be forthcoming. I'm not sure what the timing would be. It would certainly be an interesting perspective for us to review.

Whether the committee would like to review the report or engage in that discussion, we'll defer to the committee, of course, but our understanding is that the Senate report will be forthcoming.

The Chair: Thank you.

Go ahead, Mr. Bergeron.

[*Translation*]

Mr. Stéphane Bergeron: Mr. Chair, I'm listening very carefully to the debate on this amendment, and I can't help but notice something. All the amendment would do is remove 15 lines from the original bill to make us adhere to the Standing Orders of the House

of Commons and the rules of the Senate, which we are already required to do.

I can't help but say that the motion the government has put forward—and I'm surprised it was even deemed admissible—would simply invalidate provisions in the original bill that don't sit well with the government. The House has already adopted those provisions, however.

I want to let you know that I will be voting against the amendment.

• (1300)

[*English*]

The Chair: Thank you, Mr. Bergeron.

It now being one o'clock, I think it's almost time to adjourn. Prior to doing that, I understand that Mr. Chong would like to raise an issue.

Hon. Michael Chong (Wellington—Halton Hills, CPC): Thank you, Mr. Chair.

There have been discussions among members of the committee, and I believe if you seek it, you will find consent of the committee to first adopt the report that our analysts have written on the committee's travel to eastern Europe and to Belgium, and that the chair report the same to the House and that the committee requests a government response to the report.

The Chair: Thank you, Mr. Chong.

I think that's a great idea, should everyone agree. However, as you know, there are number of different steps we have to take for adoption of that motion.

Is there unanimous consent to adopt the travel report?

(Motion agreed to)

The Chair: Excellent.

Are we fine with “Wake-up Call: The World after February 24, 2022” as the title?

Some hon. members: Agreed.

The Chair: Excellent.

Next we have to determine that the chair, clerk and analysts be authorized to make such grammatical and editorial changes as may be necessary without changing the substance of the report.

Is that okay with everyone?

Some hon. members: Agreed.

The Chair: Excellent.

Pursuant to Standing Order 109, the committee requests that the chair present the report to the House and that the government table a comprehensive response to this report.

Some hon. members: Agreed.

The Chair: Awesome.

Okay, that sounds great.

I just wanted to highlight—

Hon. Robert Oliphant: Mr. Chair, can we add “with thanks to our analysts” to that motion?

The Chair: Absolutely. Thank you very, very much to the analysts.

Go ahead, Mr. McKay.

Hon. John McKay: I am not a member of this committee, but I take note that Vladimir Kara-Murza was sentenced to 25 years. May I plant a thought with the committee that this committee opine and make a statement about what is an utterly outrageous sentence? It is relevant to the entire conversation this committee has had for the last two hours.

The Chair: Absolutely. Is there unanimous consent to that?

Hon. John McKay: I would say discuss it first.

The Chair: Yes. Do we want a draft statement prepared for the next meeting?

Some hon. members: Agreed.

The Chair: Excellent.

Before adjourning, I want to remind all members that the date to report this particular bill back to the House is Wednesday, April 26, 2023.

On that point, we'll adjourn the meeting. Thank you.

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