



House of Commons
CANADA

Special Committee on the Canadian Mission in Afghanistan

AFGH • NUMBER 005 • 3rd SESSION • 40th PARLIAMENT

EVIDENCE

Wednesday, April 14, 2010

Chair

Mr. Kevin Sorenson

Special Committee on the Canadian Mission in Afghanistan

Wednesday, April 14, 2010

• (1530)

[English]

The Chair (Mr. Kevin Sorenson (Crowfoot, CPC)): Good afternoon, colleagues.

This is meeting number 5 of the Special Committee on the Canadian Mission in Afghanistan, on Wednesday, April 14, 2010.

I remind everyone that today, as you can tell, we are televised, so I would ask everyone to adjust their cellphones or their BlackBerrys.

We're continuing our study of the transfer of Afghan detainees. Appearing as our first witness today as an individual is Ahmadshah Malgarai, the advisor to the former commander of the Joint Task Force in Afghanistan.

I know, Mr. Malgarai, that you have a friend with you today. You'll be making the presentation, basically. As you understand, you will have some opening remarks, and we'll go into a couple of rounds of questioning, if that is all right with you.

Mr. Hawn.

Mr. Laurie Hawn (Edmonton Centre, CPC): Mr. Chair, I have a point of order.

We gave notice that we would like to seek unanimous consent—because we didn't get the motion in by the 48-hour limit—for the following motion, the reasons of which will be obvious.

This will only take a couple of minutes.

The motion is:

That the Committee begin without delay to investigate and study Canada's preparations and plans for the withdrawal of Canadian Forces from Afghanistan in 2011, and Canada's Whole of Government efforts and plans in Afghanistan post 2011, in light of the fact of the Leader of her Majesty's Official Opposition's inquiries in the House of Commons on March 30th, 2010, concerning the “plans the government has for the Canadian mission in Afghanistan after 2011”; and the Prime Minister's invitation to the opposition to “share its ideas on the future of the mission”; that the policy relevance and importance of these plans are clearly of immediate concern and primary importance; and that given that the Military Police Complaints Commission is continuing its own investigation, that the Committee's continuing Taliban prisoner investigation constitutes a political exercise damaging to the morale of our troops and Canada's mission.

The Chair: Mr. Hawn, my question is, are you asking for—

Mr. Laurie Hawn: I'm asking for unanimous consent to consider that motion today. I think I know the answer.

The Chair: You don't have unanimous consent.

Mr. Laurie Hawn: I think I knew that answer, Mr. Chair, but—

The Chair: Thank you.

Is this on this point of order?

Mr. Claude Bachand (Saint-Jean, BQ): No, it's on another one.

The Chair: On another one?

Mr. Claude Bachand: Yes.

[Translation]

Mr. Chairman, I would simply like to draw your attention to the following matter.

The motion introduced at the time put considerable emphasis on the fact that we had to inform as many Canadians and Quebecers as possible about the issues related to the mission in Afghanistan. However, I'm not sure we'll have the necessary infrastructure to accommodate all the media every time we meet in this room.

I want to know whether we can be guaranteed that, for every meeting held in this room, an invitation will be sent to the media and that we will no longer be served up the argument that it is impossible to accommodate them here in view of the caucus or other meetings that have been held during the morning. That's important for me. I also think that, if we held our meetings in one of the rooms equipped with broadcasting equipment in the Centre Block, that would help us enormously.

[English]

The Chair: Thank you, Mr. Bachand. I'm not certain that's a point of order, but I think what we could do is certainly take a look at it the next time we have committee business. I'm surely open to doing that.

Mr. Harris.

Mr. Jack Harris (St. John's East, NDP): Just briefly, Chair, I would support the comments of Mr. Bachand. Perhaps when we discuss this, we could also consider writing a letter to the Speaker, or whoever is in charge of this, suggesting that some of these committee rooms be upgraded so that they all have access to television broadcasting.

The Chair: Thank you, Mr. Harris.

We'll now proceed to our guest today. We look forward to your comments.

Mr. Ahmadshah Malgarai (Advisor to the Former Commander of the Joint Task Force Afghanistan, As an Individual): Thank you, Mr. Chairman and members of the committee, for inviting me.

I am Ahmadshah Malgarai, although some people know me as Pacha, my Canadian Forces code name. I'm joined today here by my legal counsel, Professor Amir Attaran.

I was employed by the Canadian Forces as a civilian in Afghanistan from June 2007 to June 2008. During that time, I served as a cultural and language advisor. You can tell from my accent that I was born in Afghanistan, but I am a Canadian. I came to Canada as a refugee and studied at Carleton University. Ottawa has been my home since.

In Afghanistan I worked both inside the wire at Kandahar airfield, known as KAF, and outside the camp in the dangerous Panjwai district and on dozens of patrols. I was on patrols hit by rifle fire and IED explosions. I risked my life for Canada's soldiers and the Afghan people. I earned many recommendations from the Canadian military and the Afghan government for my service.

From personal experience, I know what is possible or impossible to say because of operational security. Nothing I will say today is a threat to the security of Canada, Afghanistan, or the soldiers with whom I proudly served. I'm here today because of my solidarity with Canadian soldiers and Afghan people.

I had a secret clearance and worked with several military units that handled or interrogated detainees. I translated many meetings and documents about detainees for DFAIT, for the military police, and for the All Source Intelligence Centre, known as ASIC. I also translated and gave cultural advice to high-level Canadians, such as the commander of JTF Afghanistan during Task Force Afghanistan, Brigadier-General Guy Laroche, a man whom I respect very much, and also visiting ministers and members of Parliament.

What I learned in Afghanistan is that Canada often transferred innocent men to the NDS, and sometimes did so when the NDS threatened their safety and their lives. Let me tell some stories about the detainees. Please excuse me for the fact that some of the dates and details are approximate, but the Canadian Forces took my notes when I left Afghanistan.

Around June or July 2007, the CF forces raided a compound in Hazraji Baba, north of Kandahar City. During that week, a Canadian soldier shot a 17-year-old unarmed Afghan man in the back of the head. Shooting an Afghan unarmed man from the back violates the rules of engagement. The Canadian Forces thought he had a pistol, but it was tested at Bagram airfield and it was not his. Anyway, after the Canadian Forces wrongly killed the man, they panicked. They swept through the neighbourhood arresting people for no reason. They arrested more than 10 men, from about 10 to 90 years old. All the men were taken to Kandahar airfield, where I personally interviewed them with the military tactical questioners unit.

None of the detainees were Taliban. None did anything wrong except to be at home when the Canadian Forces murdered their neighbour. Yet Canada transferred all these innocent men to the NDS. I don't know what happened to them.

● (1535)

Here is another story. Around July 2007, a detainee with battle injuries was in KAF awaiting transfer to NDS. Because he had medical needs, a meeting took place between two DFAIT policy advisers—John Davison and Ed Jager—the military police, and an NDS colonel named Yassin. I attended the meeting to translate.

During the meeting, disagreement broke out. Colonel Yassin said that NDS would not accept a sick detainee. When the Canadians

insisted, Colonel Yassin removed his pistol, put it on the table, and said, "Here is my gun. Go shoot him. Give me the body, and I will justify it for you." I translated the NDS colonel's proposal to murder the detainee.

Canada's government says detainees are never transferred to NDS if there is a risk of abuse, but this is a lie. The detainee was transferred to an NDS colonel who proposed murdering him while military police and DFAIT people watched.

When Colonel Yassin made the death threat, Ed Jager immediately said, "I will pretend you did not say that and I did not hear it." Of course, pretending did not protect the man, but it is what DFAIT and the military police did. I never found out what NDS did to that man.

In the fall of 2007, the CF detained two brothers-in-law named Abdul Ghafar and Atta Mohamad Azckzai. One of those men was a car dealer and the other a mechanic. They were not fighters.

After Mr. Ghafar and Mr. Azckzai were brought to KAF, I received a call from a guard at the Canadian gate, controlled by the Canadian airfield in KAF, called ECP3. Mr. Ghafar's mother, a brave elderly woman, was asking to see me. I went to the gate to see her. She had brought a bag of medicine for her son, who she said had been recently treated for kidney diseases in Pakistan. She asked the guard to take the medicine to her son. She went on her knees, begging and grabbing the guard's feet, but the guard refused. I told my chain of command that to refuse this elderly woman was very insensitive in Afghan culture. Anyway, without his medicine Mr. Ghafar became sick. The doctors at KAF operated and removed his kidney. Then Canada was ready to transfer him.

But as I already told you, the NDS in Kandahar did not want sick detainees. They would not accept Mr. Ghafar. So Canada transferred him to the NDS in Kabul instead. I don't know what happened to him.

Mr. Atta Mohamad Azckzai was also transferred, but not easily. When Ed Jager read him the detainee agreement and he understood that he was being transferred to the NDS, Mr. Azckzai became angry. He asked why he was being transferred. Mr. Jager did not answer. However, Colonel Yassin objected that Mr. Jager was telling the detainee his rights. Mr. Azckzai protested that he had children and no money to bribe his way out of prison. Finally, he put his head on the ground and said to the soldiers, "Please put one bullet in my head. Do that instead of transferring me to the NDS." He was that scared of the NDS. Colonel Yassin answered. He told all of us, "When Azckzai gets to my room, he will speak." It was a clear threat to abuse this embarrassing detainee.

Here is the last story. In the summer of 2007 I was with the Canadian Forces assisting in Kalantar village in Kandahar Dand district. I was approached by a very desperate woman. Her husband had been detained a few days before and transferred to the NDS, and now the NDS wanted money to release him. Ransoming detainees is normal for the NDS. If the NDS is not paid, they threaten the family. Afghans know this sort of thing happens. Unfortunately, this woman was too poor. She could not pay the NDS for her husband's freedom. Even worse, with her husband in prison and not working, there was no money to buy food for her four children.

• (1540)

When I saw the children, they looked sick because their mother had to feed them grass and leaves for four days. After our patrol left the village, I do not know what happened to this family.

I am out of time, but there is one question I must discuss: that is the question of why. Why did Canadian officials ignore the abuse of the NDS, or, like Mr. Jager, why did they pretend not to see?

When he testified, Brigadier-General Thompson said that the NDS was “a very valuable partner” and that Canada “acted on the intelligence we received from the NDS”. This is true, but not in a pleasant way. I saw Canadian military intelligence sending detainees to the NDS when the detainees did not tell them what they expected to hear. If the interrogator thought a detainee was lying, the military sent him to the NDS for more questions, Afghan style. Translation: abuse and torture.

The Chair: Mr. Malgarai, I wonder how much extra time you need, because we're two minutes over already.

Mr. Ahmadshah Malgarai: In just a few minutes I will finish, Mr. Chairman.

The Chair: Just try to summarize it, and then some of it you can bring out in the questions.

Mr. Ahmadshah Malgarai: When Brigadier-General Thompson called the NDS our partner for intelligence, he was correct. But that means the military used the NDS as a subcontractor for abuse and torture.

I complained about this to the commander of ASIC, and I was punished for it while I was negotiating for the surrender of two Taliban commanders. Someone in the Canadian Forces, I believe, leaked my real name and real identity to the Taliban. Soon the Taliban were threatening, sending night letters to my family because I was a traitor helping the Canadian Forces. My family had to escape Afghanistan as refugees, afraid for their lives.

I am ending now. The stories I told show how transferring detainees to the NDS does not win hearts and minds but increases support for the Taliban. ASIC thought the NDS was a good partner for intelligence reasons, and Canada's government must agree. Certainly when I complained to the official representative of the Government of Canada in Kandahar, Elissa Golberg, nothing changed.

But today the Taliban are stronger, and Canadian soldiers are more in danger than ever before. That shows how foolish the Canadian government's detainee transfer agreements are. They hurt innocent Afghan people and Canadian soldiers at the same time.

Thank you for listening, Mr. Chairman.

• (1545)

The Chair: Thank you, sir.

We'll move into the first round.

Mr. Rae.

Hon. Bob Rae (Toronto Centre, Lib.): Thank you, Mr. Chairman.

Mr. Malgarai, I wonder if you could tell us, when you saw the situations that you're describing, did you have any training or did you know what was legal or lawful under the Geneva Convention or under international humanitarian law? Did you have a sense of what should and should not be done?

Mr. Ahmadshah Malgarai: As human beings we know what's right and what's wrong. But working for the military...they have a saying in the military, “Don't play with ranks because they can destroy you.” You cannot question the military if a man in uniform is doing something. If you question, you will be in trouble.

We just had basic training for three weeks, but none of it covered humanitarian...what's right or what's wrong or what we could do or what you were not allowed to do.

Hon. Bob Rae: Was there a chain of command or a chain of responsibility, where you would have been able to go to someone else who you reported to and say, “I've seen something that should not have happened”? Were you able to do that?

Mr. Ahmadshah Malgarai: I went through all my chains of command, from ASIC, from the field security counter-intelligence questioners who were responsible—they knew it. All along the chain of command, they knew what was going on. Everybody knew.

Hon. Bob Rae: But you specifically told them.

Mr. Ahmadshah Malgarai: I have informed everyone what's going on.

Hon. Bob Rae: And you were not allowed to keep your notes, so you have no notes or record of what you told?

Mr. Ahmadshah Malgarai: We were bound to...a breach of security; therefore, anything we said in a meeting was shredded right afterwards.

Hon. Bob Rae: So typically speaking, if you had a complaint, though, what would happen? If you had a meeting and said, “Here is a problem”, do you think that information would be written down and kept, or would it be destroyed?

Mr. Ahmadshah Malgarai: If I had a complaint or a concern, then I would go through my chain of command. And the chain of command had a notebook...he would note it. After that, they went into their own computer room, which we were not allowed to enter, and I don't know what they did with that information. But definitely I informed every single one of them I could that there was a problem with the detainee transfer.

Hon. Bob Rae: When you've had a chance to reflect on it, can you give the committee the names of the people that you reported to, the names of the people you gave your information to, and the names of the people who took the notes down? You don't have to do it now. I'm just asking for future reference, if you could do that.

Mr. Ahmadshah Malgarai: Yes.

Mr. Bob Rae: Thank you.

The Chair: Mr. Dosanjh.

Hon. Ujjal Dosanjh (Vancouver South, Lib.): I have a question for you, Mr. Malgarai. You said you told Elissa Golberg, Canada's representative in Kandahar, about military intelligence wanting detainees transferred to NDS for hard questioning. Do cabinet ministers have the same information that you do or that Elissa did?

Mr. Ahmadshah Malgarai: I cannot believe that Mr. Defence Minister, Peter MacKay, says he doesn't know. I can't believe that.

Hon. Ujjal Dosanjh: Why?

Mr. Ahmadshah Malgarai: Because all of them knew when they were transferring the detainees.... For example, when they were transferring the detainees, Ed Jager was a representative of the government. He was there when the detainee put his head in front of him on the ground and said, "Shoot me in the head, put a bullet, do me a favour, rather than transfer me there."

But if Mr. Peter MacKay says he doesn't know, I would like you to ask him that question in the House of Commons, in question period. I want him to sit right across from me and look in my eyes and say that he doesn't know.

Hon. Ujjal Dosanjh: In terms of the incident where you say the soldier shot an unarmed man, did you know what happened subsequently to the body of the man? Was it buried right away?

Mr. Ahmadshah Malgarai: When they shot the person, they panicked, as I said in my testimony. They collected and captured every male in that area and they brought them in. So the people of that village, when they woke up in the morning...they left the body with a woman. The woman wanted to bring that body to KAF and protest, to release the detainees, but the government, the military, had worked out a deal with Assadullah Khalid, the ex-governor of Kandahar, and he sent his thugs and his army to suppress those people and threaten them not to demonstrate.

• (1550)

Hon. Ujjal Dosanjh: You say that we sent detainees for hard questioning to NDS. How many instances do you personally know where that was done? Can you guesstimate?

Mr. Ahmadshah Malgarai: When I was working for ASIC, before I moved to work for the commander, the problem was that we had some interpreters, LCAs, who did not speak Pashto. That's one of the major problems in Kandahar. Probably some of the transfers happened because of the lack of qualified Pashto-speaking interpreters on the ground. Therefore, if they had a critical case, they would ask me to go and interfere and translate those documents. I certainly translated many documents of detainee transfers to NDS.

Hon. Ujjal Dosanjh: Where you knew that people were transferred pursuant to those....

Mr. Ahmadshah Malgarai: Yes, and I was involved in the process, because I was the one who would clear them at the gate.

Hon. Ujjal Dosanjh: Thank you.

The Chair: Mr. Wilfert, you have about 30 seconds.

Hon. Bryon Wilfert (Richmond Hill, Lib.): I notice a number of letters from your superiors, very glowing letters, about your work in

Afghanistan. I assume it's safe to say they had great trust in you and obviously in the observations that you provided to your superiors.

Mr. Ahmadshah Malgarai: Yes.

Hon. Bryon Wilfert: You obviously were not alone in that capacity. You had other colleagues who did the same kind of work.

Would their experiences be similar to yours in terms of the nature of reporting to command and what they saw? Did you ever share any of that information?

Mr. Ahmadshah Malgarai: When we were on the ground, because of the operation and security, we were not allowed to speak to each other or ask each other a question. If an interpreter was working for the battle group and he had a concern about something, he would go through his chain of command, because in the military everything is about action, but it's the biggest bureaucracy. So you have to go through your chain of command. If, for example, you're working for CIOFs and you go to the battle group, they will say, "Excuse me, I can't help you, that's a different chain of command", and you would have to go and talk to them.

Hon. Bryon Wilfert: Did your chain of command ever question your reports?

The Chair: Thank you, Mr. Wilfert. Your time is up.

We'll move to Mr. Bachand for seven minutes.

[Translation]

Mr. Claude Bachand: That's good.

[English]

Thank you.

You will need your translation device.

[Translation]

First of all, sir, allow me to call you Pacha, because I think it's a beautiful name.

I would like to congratulate you for your courage. I admit I haven't heard such forceful testimony since that of Richard Colvin. I emphasize what my Liberal colleague, Mr. Wilfert, pointed out. He said that your letters of recommendation were irreproachable. We have them here on the table; everyone has received them. Virtually everyone you have associated with, including General Ménard—who holds a strategic position—the American armed forces, researchers, in short, everyone concedes that you were very helpful. I therefore hope no one here or elsewhere will question what you said. I believe what you said. If you didn't have these letters, we could always wonder what you did and whether what you said was true, but you were in the heart of the action and you therefore witnessed everything you have told us about.

Furthermore, your testimony, in my view, completely contradicts that of General Hillier. He told us, at the witness table, that the prisoners who were captured had been captured after extremely dangerous and violent combat involving exchanges of fire. He said that most of them, only those who were arrested, had explosive residue on their hands. In his mind, that was enough to say they were terrorists. He also told us that all those who were farmers and those who were innocent, ordinary people, were immediately released. Would you go so far as to say that General Hillier did not tell the truth before us?

• (1555)

[English]

Mr. Ahmadshah Malgarai: First of all, thank you very much for the nice words.

No, retired General Hillier did not tell the committee the truth. When a Taliban detainee is detained and is taken to NDS prison, the NDS knows everything about him, because they will ask for the bribe. A dangerous Taliban commander, a dangerous element, can buy his way out of NDS prison. Known Taliban commanders walk out of NDS prison if they pay them.

I told you the story about Hazraji Baba, when over ten men were arrested. They went from 10 years old to 90 years old. With all due respect, I would ask retired General Hillier to tell me and explain to me how a 90-year-old man.... He was a 90-year-old man. He couldn't even walk without help. His hands were tied. His foot was shackled. He was blindfolded. Sometimes, when he couldn't walk fast enough, they pushed him. He fell many times, and he had injuries on his body.

Could he please explain to me how this 90-year-old man, who couldn't even walk, who needed help when you tried to pick him up, could be a fighter?

Mr. Claude Bachand: Did you say there were children as well?

Mr. Ahmadshah Malgarai: They went from 10 years old to 90 years old. All of them, even the 90-year-old man, were transferred to NDS.

Mr. Claude Bachand: Did they do a test on their hands for explosives?

Mr. Ahmadshah Malgarai: The explosives test: this is the most ridiculous test I have ever seen.

Now, in Afghanistan, as we know, there has been war for 40 years. All the soils are contaminated.

Mr. Claude Bachand: In Kandahar...or in Afghanistan.

Mr. Ahmadshah Malgarai: It's anywhere you go. All the soils are contaminated.

Farmers work with fertilizers. Fertilizers are used in IEDs as explosives. The farmers work with the fertilizers bare-hand.

When I was in Kandahar, they were doing all these explosives tests. I disagreed with them: "You can't use that against people." When they asked why not, I went over, put my hands in the soil, came back over to them, and asked them to please test my hands. I tested positive. I asked them, "Does that mean I should be transferred to NDS?"

This was soil from inside Kandahar airfield. I tested positive, so I should have been transferred to NDS.

This test is the most.... It's not only stupid, it's more than stupid, and I don't agree with it.

[Translation]

Mr. Claude Bachand: In your view, is it true that Canadian authorities willingly transmitted information to the Taliban that would have jeopardized your family? Is that why you sought refugee status in Canada?

[English]

Mr. Ahmadshah Malgarai: When I was in Afghanistan, I was given a task because two Taliban commanders with 40 fighters were trying to surrender. They did not care about the Afghan government. All they wanted to do was to have a guarantee from ISAF, the Canadian part; the command of Kandahar was in their hands. They wanted a guarantee from them. So those two commanders.... I was given the task, and then they gave me some information. Some of that information was that they knew that Iranian intelligence had hacked Canadian computers—

[Translation]

Mr. Claude Bachand: Mr. Ahmadshah Malgarai, I'm going to have to interrupt you because I only have 30 seconds left. I would like to know whether your family is in danger and, if so, whether you have informed Canadian authorities of that fact.

[English]

Mr. Ahmadshah Malgarai: Yes, my information was leaked. I have received threatening...death letters from the Taliban. I have written to Peter MacKay and General Natynczyk. They have written me back and they have refused to help me relocate my family. That is it. My family is in great danger.

• (1600)

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

We'll now move to Mr. Hawn.

Mr. Laurie Hawn: Thank you, Mr. Chair.

Mr. Malgarai, you've made some pretty serious allegations. You have some pretty strong opinions, and I respect that.

You said you served from June 2007 to June 2008. Was that service continuous, as a translator, or was there a break in the middle or...?

Mr. Ahmadshah Malgarai: It was continuous.

Mr. Laurie Hawn: Okay. Were you with General Laroche the whole time?

Mr. Ahmadshah Malgarai: As I said in the beginning, I was with CI, counter-intelligence, which was part of ASIC, and then I was in service with the general, and also many other teams. You can see from the recommendation letters that I worked with many other groups because of the lack of Pashto-speaking interpreters. So whenever there was a need for me, they would call on me.

Mr. Laurie Hawn: Okay. Thank you.

Now, I have a couple of points on some of these stories you have brought us.

In the first one, you said he had a pistol. He was shot in the head, but the pistol wasn't his. Did he have a pistol? You said he had a pistol.

Mr. Ahmadshah Malgarai: He did not have a pistol.

Mr. Laurie Hawn: The Canadian soldier thought he was armed?

An hon. member: He thought he was armed.

Mr. Laurie Hawn: I thought you said he had a pistol. In any event, they thought he was armed.

You also said, I think—or at least you implied—that all people transferred were innocent. Is that what you meant?

Mr. Ahmadshah Malgarai: All or most of them, yes.

Mr. Laurie Hawn: Was it 90%, 50%?

Mr. Ahmadshah Malgarai: There were some fighters, but they never denied it.

Mr. Laurie Hawn: I'm going to go onto another one.

You talked about the NDS colonel with some inappropriate behaviour, and so on, and the man disappeared. Do you have any evidence at all about whether anything actually happened to that man, anything other than an opinion and a feeling?

You're not allowed to speak, Mr. Attaran.

Mr. Ahmadshah Malgarai: What sort of evidence would you like to see, sir?

Mr. Laurie Hawn: Well, I'm asking you. You said the man was taken away, and you implied that he was killed or abused or something by the NDS.

Do you have any evidence of that, other than your opinion of the NDS?

Mr. Ahmadshah Malgarai: Well, when the detainee left Kandahar airfield, we had no control over that, and we had no contact with him. It was the job of DFAIT.

Mr. Laurie Hawn: So you have no idea what actually happened to that man.

Mr. Ahmadshah Malgarai: Well, from what the people were saying.

Mr. Laurie Hawn: You have no idea what actually happened to that man. There's no specific evidence.

Mr. Ahmadshah Malgarai: There is no specific evidence.

Mr. Laurie Hawn: Thank you.

The third story was about Mr. Rafeil, who was operated on at Kandahar airfield and who subsequently left.

Do you have any evidence about what actually happened to Mr. Rafeil?

Mr. Ahmadshah Malgarai: I said in my testimony that I don't know what happened to him.

Mr. Laurie Hawn: Thank you.

Mr. Ahmadshah Malgarai: But he was transferred.

Mr. Laurie Hawn: Yes, that's fine, but you have no evidence about what actually happened to that man?

Mr. Ahmadshah Malgarai: Well, we didn't have any evidence until we found the shackles, and we also found the whips. You can go to the testimony of MPCC.

Mr. Laurie Hawn: We're talking apples and oranges here.

Mr. Ahmadshah Malgarai: Even from January to August—

Mr. Laurie Hawn: Please answer my question. Do you have any idea—specific evidence—about what happened to Mr. Rafeil?

Mr. Ahmadshah Malgarai: Who?

Mr. Laurie Hawn: Mr. Rafeil, your third example. He was the man who was operated on in KAF. He had a bad....

Mr. Ahmadshah Malgarai: You mean Ghafar.

Mr. Laurie Hawn: Sorry, it was Mr. Ghafar.

Do you have any specific evidence about what actually happened to him?

Mr. Ahmadshah Malgarai: He was transferred. NDS wouldn't accept him, so they transferred him to Kabul.

Mr. Laurie Hawn: That's all you know.

Mr. Ahmadshah Malgarai: That's all I know. He was transferred.

• (1605)

Mr. Laurie Hawn: Fine. Thank you.

I'm a little concerned about the desperate woman you talked about. She had to eat grass. That obviously would be terrible.

I've done quite a bit of reading about Afghanistan and the people. And one of the aspects of the Afghan people, and Muslims, in general, I think, is that they're very welcoming, you know, with the three cups of tea and all of those kinds of traditions. It would surprise me if someone in that situation in an Afghan village was not looked after by her neighbours.

Mr. Ahmadshah Malgarai: Well, in the village, the people and their neighbours, Afghan people, also have their honour. They do not want to show what is going on and what they're going through to another person, because of the stigma. The next time they will say, "Okay, I helped you when you needed me," and all this stuff. Therefore, the people will not help.

Also, in that village, most of the people were poor. In Kandahar they are poor. They don't even have drinking water. In that village, Kalantar village, the people did not even have clean drinking water.

Mr. Laurie Hawn: I've been there. I understand.

So was everybody in the village eating grass?

Mr. Ahmadshah Malgarai: No. That family, the woman, she told me, "I don't have money to pay for my husband's release, for freedom, and I don't even have money to pay for food, to buy food for my children."

Mr. Laurie Hawn: No, I understand. I'm just a little surprised, from what I've read about the Afghans, that they wouldn't look after each other.

You talked about your chain of command. What was your specific chain of command?

Mr. Ahmadshah Malgarai: My first specific chain of command was a captain of CI. Then the second chain of command was ASIC. After, I worked for the general, and then my chain of command was Commander Laroche.

Mr. Laurie Hawn: Okay, and to what level in that chain of command did you speak directly?

Mr. Ahmadshah Malgarai: I spoke directly to ASIC.

Mr. Laurie Hawn: You must have spoken directly to General Laroche, I assume, because you had a good relationship.

Mr. Ahmadshah Malgarai: I had a good relationship, but the decision on whether to transfer or not to transfer and on the interrogation of detainees was part of ASIC, not part of HQ. He had the last say. If there was a problem, he would authorize the release or transfer, but if there was a case that was controversial....

And lo and behold, don't take Ottawa out of the loop, because any detainee information was being shared with Ottawa instantly. So anybody in Ottawa knows what's going on.

Mr. Laurie Hawn: Can you tell me how you know that?

Mr. Ahmadshah Malgarai: Okay. I know this because when I was working for MWT, the mobile warfare team, you're listening to the phone. There was a report that my colleague gave, and that was that they had listened to the phone of a Canadian citizen. After two or three minutes, a call came from Ottawa saying, "Okay, this is a Canadian citizen; you cannot do that." Within two or three minutes, we were notified that this was a Canadian citizen, and you cannot hack into his computer or listen to his phone.

Mr. Laurie Hawn: Do you have any idea who in Ottawa was at the other end of that communication?

Mr. Ahmadshah Malgarai: Well, you should ask the Minister of Defence or....

Mr. Laurie Hawn: I'm asking you. Do you have any idea who was at the other end of that communication?

Mr. Ahmadshah Malgarai: It was government officials, like you.

Mr. Laurie Hawn: There was a member of Parliament at the other end of that communication?

Mr. Ahmadshah Malgarai: Probably you knew about it.

Mr. Laurie Hawn: I don't know how many members of Parliament here get calls directly from Afghanistan, but I think probably very few or none.

The Chair: Thank you, Mr. Hawn. We'll have to come back to you in the second round.

We'll go to Mr. Dewar.

Mr. Paul Dewar (Ottawa Centre, NDP): Thank you, Chair, and our guests.

I'll do as others have done, if I may, and call you Mr. Pacha.

I'm going to read from a document from October 2007, which basically is a Canadian investigator writing comments about detainees. It says:

All detainees were captured in the compound of [name] who was confirmed to be TB [Taliban] commander. Furthermore, [name] tested positive during an explosive residue test and a large quantity of explosive, IED materials, weapons

and ammunitions were also found inside his compound. During the interviews conducted, it is believe [sic.] that all the detainees were deceptive and they have a better knowledge on TB [Taliban] activity in their area. Based upon the above, it is recommended that [names] be transferred to the National Directorate of Security (NDS) for further questioning. Authorize the release of this report to NDS: CO ASIC.

I want to just show you this document, if I may, and ask you if you recognize this document. What I was reading was the end piece, the last paragraph. There are, I think, three pages there.

The Chair: Mr. Dewar, do you have the document for the rest of the committee members to see what you're passing out?

Mr. Paul Dewar: If I can ask the question and respond to that....

The Chair: Very quickly, but don't continue to read from documents that none of us have seen.

Mr. Paul Dewar: I have the paragraph that I read into the record. I can pass that out.

The Chair: It's a real disadvantage for the committee—

Mr. Paul Dewar: Yes, I can pass that out, the paragraph I read into the record, too.

Can I ask you if you recognize the document?

Mr. Ahmadshah Malgarai: I recognize this document. May I ask if this can go into the record, the whole document?

• (1610)

Mr. Paul Dewar: If I may, Chair, I would like to ask some questions about the document first.

An hon. member: But we haven't seen it.

Mr. Paul Dewar: If you could stop the clock for a second, Chair.

Okay, then I'll carry on with my questions. If I can carry on with the questions, then we can return to the status of the document.

You recognize this document?

Mr. Ahmadshah Malgarai: Yes, this is a transfer detainee document, which were given during the transfer to NDS.

Mr. Paul Dewar: What would you make of the last paragraph that I read into the record, which I'm sharing with the committee, where it says—I omitted the names there—that these people would be transferred to the NDS for further questioning?

What does that mean, they'd be transferred for further questioning?

Mr. Ahmadshah Malgarai: I have probably translated more than 40 or 50 of these documents, and these documents are actually detainee transfer documents that were given to NDS during the transfers.

When I was translating this document, I always asked the tactical questioners, I said, "Here you say that it's for further questioning by NDS—they should be transferred for further questioning. Should I translate this as transferring for questioning or transferring for torture?" They would just laugh.

Mr. Paul Dewar: Why would you say that?

Mr. Ahmadshah Malgarai: I was always asking, joking with them, because we were working in one room. I would say, "Should I translate this...?" Because they were subcontracting torture.

Mr. Paul Dewar: So you believed, because of your experience, that when a transfer was written into the NDS it meant they were trying to use the NDS for—

Mr. Ahmadshah Malgarai: They were trying to use the NDS as subcontracting for torture.

Mr. Paul Dewar: In your experience, you said that you've translated more than 40 of these agreements?

Mr. Ahmadshah Malgarai: Yes.

Mr. Paul Dewar: And you were translating them from what language to what language?

Mr. Ahmadshah Malgarai: I was translating it from English to Pashto. Before we transferred the detainees, a copy of the English and Pashto translation was given to NDS.

Mr. Paul Dewar: So the document that you translated would be for NDS?

Mr. Ahmadshah Malgarai: And the English one, yes.

Mr. Paul Dewar: Would both of these documents be kept on file with the Canadian Forces, or were they—

Mr. Ahmadshah Malgarai: Most certainly, because if NDS has it, then they should have it in their file as well.

Mr. Paul Dewar: You say that in this arrangement there were in this case—and I'm looking at the date of October 2007—six of these people who were interrogated by the Canadian Forces and then passed on to NDS.

You're saying that when it says at the end that the interview is concluded but they believe the detainees were deceptive and have better knowledge than they suggested they did, the idea here was to pass them on to the NDS to extract more information, because of the methods that NDS used?

Mr. Ahmadshah Malgarai: The language is very simple here if you look at it. If they wanted to extract more information from them, if they were deceptive, they kept them longer and asked them questions until they were satisfied. If you can't get it out of them through a normal way, then you have to subcontract the torture. It's not the first time it has happened. We did it with Maher Arar. We subcontracted his torture. So why would anybody doubt that we did not do it with Afghans?

Mr. Paul Dewar: It was understood, then, when the detainees were being transferred to NDS that it was done for that purpose?

Mr. Ahmadshah Malgarai: There was no one in the Canadian military with a uniform who was involved in any way, at any level, with the detainee transfers who did not know what was going on and what the NDS does to their detainees.

Mr. Paul Dewar: So once they handed over the detainees to the NDS, it was clear, from your experience, what would happen after. And this was at the end of October?

Mr. Ahmadshah Malgarai: Yes.

Mr. Paul Dewar: I want to go back to what you said about threats to your family.

The Chair: Very quickly. You have about 10 seconds.

Mr. Paul Dewar: When did this happen, the threats to your family? Was it while you were in Afghanistan or when you left?

Mr. Ahmadshah Malgarai: When I was in Kandahar I heard from the local people. They were telling me I had to watch because they were investigating me. And that information was leaked. Also, I was in Panjwai, where an older man by the name of Abdul Barikhaka was working in the kitchen, and he came and told me, "Either you quit the job or you leave." The next day, dead, shot in the head.

• (1615)

Mr. Paul Dewar: Who?

Mr. Ahmadshah Malgarai: Abdul Barikhaka.

The Chair: Thank you.

Mr. Malgarai, I don't know if this is a document at all. Did you translate this document?

Mr. Ahmadshah Malgarai: I might have. I have translated similar documents to this.

The Chair: But did you translate this document?

Mr. Ahmadshah Malgarai: I can't tell for sure if I did or not.

The Chair: Mr. Hawn.

No, I'm sorry—

Dr. Amir Attaran (Counsel to Ahmadshah Malgarai, As an Individual): My client would like this document entered into the committee's record.

The Chair: Mr. Hawn.

Mr. Laurie Hawn: Thank you very much.

You just made a very blanket statement that everybody in uniform in the Canadian Forces who had any knowledge or anything to do with detainees knew that detainees were being transferred to torture.

Mr. Ahmadshah Malgarai: Yes.

Mr. Laurie Hawn: How do you know that General Hillier knew?

You talked about great respect for General Laroche and how well you got along with him. Are you now calling General Laroche a liar?

Mr. Ahmadshah Malgarai: No.

Mr. Laurie Hawn: General Laroche has said that he had no knowledge...that no Canadians were transferred to torture, that he was aware of. You are just now calling him a liar. Are you calling General Laroche a liar?

Mr. Ahmadshah Malgarai: General Laroche has never said anything on record.

Mr. Laurie Hawn: General Laroche has said—

Mr. Ahmadshah Malgarai: It was General Thompson.

Mr. Laurie Hawn: Are you calling General Thompson a liar? Are you calling General Fraser a liar?

Mr. Ahmadshah Malgarai: He didn't speak the truth.

Mr. Laurie Hawn: Are you calling General Gauthier a liar?

An hon. member: Hillier.

Mr. Laurie Hawn: I'm getting to him.

Are you calling General Hillier a liar?

Mr. Ahmadshah Malgarai: I don't call anybody a liar—

Mr. Laurie Hawn: You just did.

Mr. Ahmadshah Malgarai: —in the chain of command. What I'm saying is that you're trying to protect this government—

Mr. Laurie Hawn: No, I'm sorry—

Mr. Ahmadshah Malgarai: [*Inaudible—Editor*]...play like a child—

The Chair: Mr. Malgarai and Mr. Hawn, just hold on. We're going to start bringing all these comments through the chair. And let's just tone it down a little bit on both sides here.

Mr. Laurie Hawn: So you are calling all of the generals who testified before this committee liars because they all said they had no direct knowledge of—

Mr. Ahmadshah Malgarai: What I was asked about General Hillier, what he said, I am saying that's not true. What he said is not true.

Mr. Laurie Hawn: You also said that every person in uniform in the Canadian Forces, at every level—

Mr. Ahmadshah Malgarai: I did not say any level; I said any department that had anything to do with anything—

The Chair: Mr. Malgarai, let's just allow Mr. Hawn the time to finish his statement, and then he'll allow you the time.

Mr. Laurie Hawn: Thank you, Mr. Chair.

You said “at every level”. That includes General Hillier, General Natynczyk, everybody on down. That's precisely what you said.

I'd like to go to these letters of recommendation that you had. Did you mention any of these concerns that you had to Warrant Officer Menard, who wrote one of those letters of recommendation?

An hon. member: Can he respond, Chair?

The Chair: Go ahead, Mr. Malgarai.

Mr. Laurie Hawn: Previously you said that everybody at every level....

Mr. Ahmadshah Malgarai: Don't put words in my mouth. I know you're a politician. You know how to play with words. But do not insult my intelligence.

Let me answer. What I said is on the record. And there's more than one person in this room who's listening to us. So you don't have to make up things as you go along.

Mr. Laurie Hawn: We'll check the record.

Mr. Ahmadshah Malgarai: I said that any department at any level that had anything to do with the transferring of detainees knew what NDS does to detainees. That's what I said. That's what I'm repeating. And I will continue to say the same thing.

Mr. Laurie Hawn: Thank you. We will check the record, because you said “every person”.

Did you speak to Warrant Officer Menard about your concerns?

Mr. Ahmadshah Malgarai: Yes.

Mr. Laurie Hawn: Did you speak to Lieutenant Garon about your concerns?

Mr. Ahmadshah Malgarai: Captain Garon was not working as a part of ASIC.

Mr. Laurie Hawn: You have a recommendation letter from him, do you not?

Mr. Ahmadshah Malgarai: I worked with him. He was training the ANA.

Mr. Laurie Hawn: Did you talk to him about your concerns?

Mr. Ahmadshah Malgarai: About who?

Mr. Laurie Hawn: About the detainees.

Mr. Ahmadshah Malgarai: As I said, in the military there's a chain of command. If you speak to a person and he says that's not his chain of command, I'm not wasting my time going to someone who cannot do anything or cannot provide any help. I was talking to those who could do something about it.

Mr. Laurie Hawn: Thank you.

So you talked about the chain of command. You also said that everybody in the chain of command knew. If you're talking to this level in the chain of command, how do you know that this level in the chain of command knows? How do you know that?

Mr. Ahmadshah Malgarai: When you speak to a person like Menard...he was my boss. He was my chain of command. His chain of command was Major Desjardins. Major Desjardins' boss was Lieutenant-Commander Weinhoff. Weinhoff's commander was somebody else. So that's how the chain of command—

Mr. Laurie Hawn: Trust me, I understand chain of command. How do you know what they said to the higher level in the chain of command?

Dr. Amir Attaran: Can you please let the witness finish his answer?

Mr. Laurie Hawn: No, you may not speak, Mr. Attaran.

Dr. Amir Attaran: I am his counsel, and I will not allow you to interrupt him in the middle of an answer.

Mr. Laurie Hawn: You may not speak to the committee.

It's a direct question. How do you know what somebody in the chain of command said to somebody else in the chain of command? How do you know?

Mr. Ahmadshah Malgarai: My job was to let my chain of command know, and his job was to let his chain of command know.

Mr. Laurie Hawn: How do you know what he said to his level in the chain of command? You don't know.

• (1620)

Mr. Ahmadshah Malgarai: I was concerned with what I was concerned with and what I told to my chain of command.

Mr. Laurie Hawn: You don't know.

Did you ever have a conversation with Minister MacKay?

Mr. Ahmadshah Malgarai: Not about this, but yes, I did meet him more than two times.

Mr. Laurie Hawn: Okay. Did you ever bring any of this to his attention?

Mr. Ahmadshah Malgarai: He was not my chain of command.

Mr. Laurie Hawn: How can you say what the MND knows or doesn't know? How can you categorically say that the minister knows?

Mr. Ahmadshah Malgarai: He denied that he knew anything. All I am asking is that he sit across from me, look in my eyes, and tell me that he doesn't know. That's all I ask.

The Chair: Thank you, Mr. Hawn. We'll come back.

Mr. Dosanjh.

Hon. Ujjal Dosanjh: I will share my time with my colleague, Mr. Rae.

Let me call you Pacha. It's easier.

You said that you may have translated this document. You have read the names on the document. You know this document is dated October 2007.

There was the discovery in November 2007 of the electrical wire that people were allegedly beaten with at the NDS facility. Do you know the name of the person who was actually the detainee who pointed out that piece of evidence?

Mr. Ahmadshah Malgarai: I can't say for sure that I translated these documents, but I've translated over 40 documents similar to this one.

I don't know the name of the person who was found electrocuted. It might very well be one of these guys, because you're telling me the date is October 30, 2007. It might be one of those persons, but I don't know the name of the person.

Hon. Ujjal Dosanjh: Thank you.

The Chair: Mr. Rae.

Hon. Bob Rae: Mr. Malgarai, I want to ask you to again come back to the incident that other people have raised as well. It's the incident that involved shooting someone in the back of head and then rounding up a group of people between the ages of 10 and 90. Where exactly did this incident take place?

Mr. Ahmadshah Malgarai: It's in an area called Hazraji Baba. This is the area of the cemetery of the king, Mohammed Zahir Shah. He came from there. His forefathers are buried there. It's a very well-known area. This compound was located in Hazraji Baba.

Hon. Bob Rae: You can remember the place. You have it very clearly in your mind. Did you see the soldier shoot the 17-year-old individual in the back of the head?

Mr. Ahmadshah Malgarai: When they raided the compound, I wasn't there.

Hon. Bob Rae: You weren't there.

Mr. Ahmadshah Malgarai: I met those detainees when they brought them to the airfield. I personally translated the interrogation.

Hon. Bob Rae: To be clear, it is important. This is a very significant allegation. I want you to understand this is a very significant allegation. It's very important for us to understand exactly what you know and what you think, because those are sometimes two different things.

What do you know? Were you in this area when the shooting took place?

Mr. Ahmadshah Malgarai: No.

Hon. Bob Rae: Were you there when the people were rounded up?

Mr. Ahmadshah Malgarai: No.

Hon. Bob Rae: You weren't present when you say they tried to cover this up, they rounded everybody up, and then they came back. I want to make sure we understand exactly what you know.

Mr. Ahmadshah Malgarai: I was allowed to see the intelligence report and I also participated in the interrogation. Two brothers of the person who was killed were also brought in to KAF. When they asked the brother during interrogation...he did not answer. All he said was "You have killed my brother."

The brothers said that when they shot him in the back of the head...because he was sleeping on top of the roof. He came down on to the stairs. His brother said he was sleeping in the room. He grabbed his brother, he brought him and put his head in his lap. The soldiers were then up top. He then heard the sound of something dropping next to him. It was a gun.

I know for a fact that they tried a DNA test and they also did the fingerprints on it. It was negative. There were no fingerprints. There were no chambers.... There were no bullets in that pistol and not a single shot was fired from it.

Hon. Bob Rae: I just want to emphasize that this is an extremely important allegation you're making, because what you're essentially saying—and I don't want to put words in anybody's mouth—is that first of all someone was shot who should not have been shot, which admittedly sometimes happens in the field of battle; and secondly, you're saying there was an effort to cover up what took place. Is that what you're saying? I want to understand.

Mr. Ahmadshah Malgarai: When the person who was responsible for the report, his name was Master Corporal Ricco—

Mr. Bob Rae: Master Corporal...?

Mr. Ahmadshah Malgarai: Ricco. He was the person who wrote the report on this person. He talked to Warrant Officer Menard and Captain Garon, who was the chain of command, and he told them that after interrogation—because he did all the interrogation. He said, "Listen, this is a murder, and we are trying to cover it up." He showed me the pictures of that detainee, the young boy who was shot in the head. He was taking pictures from different angles. And he said, "This is a murder and they are trying to cover it up." That was the word of a military, uniformed officer.

• (1625)

Hon. Bob Rae: And you heard him use those words?

Mr. Ahmadshah Malgarai: Yes.

The Chair: Thank you, Mr. Rae. Thank you, Mr. Malgarai.

We're going to conclude this at 4:30 and invite our next one to come, so we have about three minutes left.

Mr. Hawn, the order is that we go back to the government side.

Mr. Laurie Hawn: Thank you, Mr. Chair.

Mr. Malgarai, how could you continue to work for the Canadian Forces if you had such bad experiences or were so upset at the way the Canadian Forces operate?

Mr. Ahmadshah Malgarai: Well, sir, I'm a human being and I try to help my people. If I had quit—

Mr. Laurie Hawn: That's a good answer.

You said you were punished for saying things you shouldn't have said or for asking questions you shouldn't have asked? Did I understand that correctly?

Mr. Ahmadshah Malgarai: I have raised concerns many times. Yes, I was punished.

Mr. Laurie Hawn: And you said you were punished for that somehow? If that were so and you raised it through your chain of command, which you've said, then how would you get a commendation letter from Warrant Officer Menard, who was your chain of command?

Mr. Ahmadshah Malgarai: By the time I was punished, Menard had already left, because he was ROTO 3 and the letters you see were ROTO 4. So that's six months after.

Mr. Laurie Hawn: Did you approve the appointment of Elissa Golberg as the representative of Canada in Kandahar?

Mr. Ahmadshah Malgarai: If you quote me and see in the newspaper, I say she is a liability not an asset. No.

Mr. Laurie Hawn: You did not approve of her appointment?

Mr. Ahmadshah Malgarai: No.

Mr. Laurie Hawn: Can you tell me whether you have taken or are currently taking legal action against the Government of Canada?

Dr. Amir Attaran: I am his counsel and—

The Chair: Mr. Attaran, you cannot answer here, okay?

Mr. Ahmadshah Malgarai: I am not answering.

Mr. Laurie Hawn: Then we will take that as not a denial that you are, have, or are currently pursuing legal action.

Dr. Amir Attaran: You can look it up in the court registry if you like.

Mr. Laurie Hawn: We know how it works, Mr. Attaran, thank you very much. Please don't butt in.

Dr. Amir Attaran: That's good. I hope you know the alphabet to look it up.

Mr. Laurie Hawn: Thank you very much, Mr. Attaran. Please be quiet.

Mr. Chair, I don't have another question, but I'm concerned that some of the testimony today has violated operational security, and we'll get somebody else to look at it. I would ask that the transcripts of today's proceedings be given to both—

An hon. member: [*Inaudible—Editor*]

Mr. Laurie Hawn: It's a legitimate.... I don't know the answer. With my military background I do have some suspicions. And it's not casting aspersions; it's just saying that in the discussions that have taken place, I am a little concerned some of the information has crossed the line of operational security.

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

This is televised, so it is public, so I'm sure all those who would have some concerns have access to it.

Thank you very much, Mr. Malgarai, for your attendance here today.

We're going to suspend very briefly because we've already cut the next witness a little short on time, so I would ask Mr. Malgarai to exit as quickly as possible.

If we can have Ms. Olexiuk come to the stand, please....

•

_____ (Pause) _____

•

• (1630)

The Chair: Good afternoon. We welcome you back to our second hour. In this second hour we're continuing our study on the transfer of Afghan detainees. Appearing as a witness in this hour we have Ms. Eileen Olexiuk, former senior policy advisor to the Department of Foreign Affairs and International Trade.

Ms. Olexiuk, I understand you have a brief opening statement, and then we can proceed to questions from the members of this committee.

So thank you, and welcome. We look forward to your comments.

Ms. Eileen Olexiuk (Former Senior Policy Advisor, Department of Foreign Affairs and International Trade, As an Individual): Thank you for the invitation.

I'm afraid I'm not going to have an awful lot pertinent to tell you because I left Afghanistan in August 2005. I was there from September 2002 to August 2005. I was the first Canadian diplomat accredited full time to Afghanistan, and I was on my own that first year. There was no means of communicating with Ottawa at that time, so I travelled to Islamabad and filed my reports through the Canadian High Commission there. Then, as you are aware, the embassy opened in August 2003, and the first resident ambassador appeared. I was the political counsellor, and the deputy head of mission and chargé in the ambassador's absence. We were a very small team, just four: the ambassador, the CIDA program manager, the consular officer, and me.

I was able to travel extensively, especially in the first year. There were no travel restrictions on me. Sometimes I wondered if people even knew I was there because I went wherever I wanted, when I wanted. I had been told before I left to ensure that I would get the views of the "man on the street", so it meant that I had to get away from some official circles and travel throughout the country.

My major responsibility, and what I reported to Ottawa on, was reform of the security sector. That included the army, police, justice, counter-narcotics, demilitarization, the provincial reconstruction teams, and so on. I had to report also on political developments, the constitution, elections, the formation of political parties, and of course human rights. The benchmarks against which I reported were the Bonn Agreement, the Loya Jirga decisions, presidential decrees, and civil society perceptions in Kabul and in the provinces.

I was also a political liaison for our defence attaché and RCMP liaison officers who were in Islamabad but accredited to Afghanistan as well.

Another part of the work was to organize all the programs for visits, including being the note-taker and writing the reports on the visits of the defence and foreign affairs ministers, senior officials, the Prime Minister, and the Governor General, twice.

As a background, I'll just tell you that I worked for CIDA at one point: Southeast Asia, Bangladesh, Colombia, Ecuador, and Pakistan. In Foreign Affairs, I worked on the economic and democratic transition in Russia, the Canadian assistance to that transitional period; on Bosnia; on reconstruction of the former Yugoslavia; and on the Balkans. This is before I went to Afghanistan.

What I learned, and certainly Afghanistan confirmed that, is that these fragile states, as they called them, or failing states, and the countries in transition and post-conflict situations, are not the usual diplomatic fare, as you can imagine. Rule of law is most often absent. In fact, I can't think of anywhere that it was present in these countries of transition in the way that we would describe it. Violence was the way they solved their differences, and of course corruption sets in very quickly. Human rights are severely neglected.

I've had many requests since I came back to go on talk shows, to have interviews, and I relented a few weeks ago, and I guess that's why I was invited here, because of my CBC interview. I want to clarify that I agreed to the CBC radio interview, and the sole purpose was to give some support to Richard Colvin, because I didn't see anyone really speaking up for him at all. In fact, he was being, it seemed to me, quite maligned.

•(1635)

During that interview I made no mention of ruling parties, politics, or names. I was quite surprised—and that's my naïveté in dealing with the media—to find it so highly charged and politicized in the evening news.

Hon. Bob Rae: Welcome to our world.

The Chair: Please continue.

Ms. Eileen Olexiuk: I want to assure you that in all my career I have served the interests of Canada, the Canadian people, as a non-partisan professional and as a person of integrity in some of the most troublesome hot spots of the world.

I want to refer to the annual human rights reports, because I think some of you might have some from 2002 to 2004 or 2005.

Those of us who work in the field and are charged with preparing human rights reports take this work very seriously. I do in particular, because I feel that if we do these reports well, they describe the

human condition against the Universal Declaration of Human Rights. It is important that they are studied by those who receive them and those who are to go out in the field, because they cover everything.

It's also important that we study our usual interlocutors and civil society's perceptions of authorities and power brokers. But this takes time, and we often don't have much time in a post-conflict country such as Afghanistan. We have to make snap decisions just to try to keep people alive. Too often we may be inclined to concoct quick fixes without tackling the root causes and without really understanding the subtleties and complexities of cultures so unlike our own. I have not, in all my career, been in a place as complex as Afghanistan.

With our current restrictions on civilian freedom of movement, it must be increasingly difficult for colleagues in the field to keep up with situations and the characters at play.

We are just now starting to get a glimpse into Afghanistan. I trust we can put this to work in our post-2011 interventions.

Thank you.

The Chair: Thanks very much, Ms. Olexiuk.

We'll move to our first round.

Mr. Wilfert.

Hon. Bryon Wilfert: Thank you, Mr. Chairman.

Ms. Olexiuk, thank you very much for your testimony, and thank you very much for your service to Canada and Canadians. Obviously you have a very detailed CV.

During the time you were there, what was the policy on transferring detainees? Were they transferred to the United States or to the Afghans?

Ms. Eileen Olexiuk: I'm not aware that we transferred detainees at that point. We did not have a big military presence there. We did under ISAF, but I was not at all involved in the....

Hon. Bryon Wilfert: So if Canadians captured suspected Taliban, what did they do with them during your time?

Ms. Eileen Olexiuk: I'm sorry, I don't know.

Hon. Bryon Wilfert: Okay.

You said you wrote three reports during your time. I understand your comments about the media, but you were quoted as saying that torture was commonplace. So if you don't know what happened, or if we didn't transfer anyone or have anyone to transfer, how do we know if there was any torture?

Ms. Eileen Olexiuk: In the context of the human rights reports, I mentioned almost every year that it was common knowledge that torture was commonplace. This was reported in the Afghan Independent Human Rights Commission reports and various UN reports by the UN expert, Sharif Basyouni. Louise Arbour mentioned it when she was in Afghanistan. It is reported in the press and in reports that you can look at online.

● (1640)

Hon. Bryon Wilfert: So you're suggesting it wasn't necessarily exclusively for prisoners; in general, torture or the use of physical violence by Afghans was fairly common.

Ms. Eileen Olexiuk: The use of physical violence was fairly common, according to people who spoke with me.

Hon. Bryon Wilfert: Okay.

You sent these reports to Ottawa. Who did they go to?

Ms. Eileen Olexiuk: They went to the human rights division of Foreign Affairs. That is who called for the report and gave the guidelines: what they wanted in them, what they wanted to see covered. And they went to the desk, as we called it, the bilateral desk, the geographic desk, and a series of other places that they were copied to.

Hon. Bryon Wilfert: Through you, Mr. Chairman, what feedback or comments did you get back from the desk with regard to those reports?

Ms. Eileen Olexiuk: I didn't get comments back from the desk. I got one comment, actually, which was quite nice. Maybe I got two. I got one from a young fellow in the first year, who said, "Thank you so much. Now I understand Afghanistan." And then maybe a little bit later I had one from our director general at that point, who thanked me for the completeness of the report and the detail and said they would make use of it.

Hon. Bryon Wilfert: Would you say you raised any concerns that you were trying to flag, or just general...?

Ms. Eileen Olexiuk: It was general, and if you've seen the reports, you might say I was flagging some of the suggestions. I think they were called "ideas/suggestions" that we had to put at the end. Those were things that I thought were perhaps important.

Hon. Bryon Wilfert: We're not allowed to see very much of anything, so I haven't seen it, myself.

Ms. Eileen Olexiuk: I saw it online. I could give you the website. It's redacted, but there's not very much redacted.

Hon. Bryon Wilfert: We're too busy reading the redacted documents.

Hon. Bob Rae: Ms. Olexiuk, I want to thank you very much.

What year did you join the foreign service?

Ms. Eileen Olexiuk: Let me think. First I worked for CIDA, and then I was posted to Colombia, as a domestic person. I was put in charge of the aid program to Colombia and Ecuador, and during that

time there was a competition for the foreign service, which they don't do very often, these sort of cross-level competitions. I was successful, so when I left Colombia in 1982 I accepted to join the foreign service. However, personal family reasons intervened and I didn't actually come to work until 1989.

Hon. Bob Rae: Okay, understood.

Have you been back to Afghanistan since you left in 2005?

Ms. Eileen Olexiuk: No.

Hon. Bob Rae: Reading the reports and reading the history and the books about the period, it was a different time between 2002 and 2005. You seemed to have more freedom of movement, a greater ability to sort of get around on your own as an independent officer. Would that be a fair description?

Ms. Eileen Olexiuk: Yes. It started tightening up after we got the embassy opened. The first year there were no restrictions, but it started to tighten up when the embassy opened and the ambassador arrived.

Hon. Bob Rae: And on the kind of information you were providing to the government and to the ambassador, to Mr. Alexander, you would presumably have discussed with him this broad security issue with respect to what was actually taking place. Did you actually visit jails or visit prisons and get a chance to see them yourself?

Ms. Eileen Olexiuk: I did.

Hon. Bob Rae: And can you give us a sense of what it was like?

Ms. Eileen Olexiuk: Well, very crowded rooms.... One I remember in particular, there were two or three levels of bunk beds and people were on the floor eating. As you know, Afghans put an oilcloth on the floor to eat, and they had to take turns because there wasn't enough room. So that's how crowded it was. And I've seen in several places a description of the conditions as "medieval", and that's....

● (1645)

Hon. Bob Rae: You would agree with that?

But just to confirm Bryon's point, the time you were there, the 2002 to 2005 period, our troop levels were not such that we were capturing a lot of troops. Were you part of the discussions with the ambassador or anyone else about the negotiation of the new agreement with the Government of Afghanistan on the question of detainee transfer?

Ms. Eileen Olexiuk: No.

Hon. Bob Rae: No. You weren't part of that discussion.

Ms. Eileen Olexiuk: No, not in Kabul.

Hon. Bob Rae: Okay, thank you.

The Chair: Thank you, Mr. Rae.

Madame Lalonde.

[Translation]

Ms. Francine Lalonde (La Pointe-de-l'Île, BQ): Can you hear me?

[English]

Ms. Eileen Olexiuk: *Oui, ça va.*

[Translation]

Ms. Francine Lalonde: Thank you very much—

[English]

Ms. Eileen Olexiuk: Please excuse me. I've been retired too long. I don't remember how these things work.

[Translation]

Ms. Francine Lalonde: First of all, I want to thank you for your testimony. Despite the fact that you didn't say at the start what you said at the end, I find it edifying to see your desire to be non-partisan, to defend your country and to be objective. A number of young people would be happy to hear you.

You can help us because you have a lot of experience and knowledge. One of the articles written after your interview states that, in each of the reports you prepared, you outlined the risks that Afghan inmates would be tortured by Afghan authorities. It states that this was known to be the way they used to get information. Are you confirming that?

[English]

Ms. Eileen Olexiuk: Do you mean that I said that? Yes. But it's a little bit out of context.

It's as I was saying earlier. It was well known. I mean, people talked about that. It was written in many reports down there, in writing, which you can see. I am not getting this myself.

[Translation]

Ms. Francine Lalonde: Perhaps that's why you said you wanted to speak in support of Mr. Colvin. You said that.

[English]

Ms. Eileen Olexiuk: Yes, I guess so.

[Translation]

Ms. Francine Lalonde: You're also reported as saying that, when Paul Martin agreed for Canadian troops to be transferred to Kandahar in 2005, you saw fit to issue a warning. You warned the

government that the agreement it was preparing to sign on the transfer of prisoners did not offer—

Ms. Eileen Olexiuk: This doesn't work. It's in French; I understood you, but—

Ms. Francine Lalonde: Is that fine now?

So you warned the government that the agreement it was preparing to sign on the transfer of prisoners did not offer enough protection.

[English]

Ms. Eileen Olexiuk: Again, it's a little out of context. I had a glance at the agreement—I'd say that—when I was in Ottawa. I can't say that it was to Paul Martin or anyone like that. But it was in a meeting. I wasn't actually asked to comment on the agreement, because there are human rights specialists and international law specialists. But I was invited to the meeting. I said, informally, that we can't do that. We can't transfer them like that without.... We have to make sure that we can have access to them, or something like that. We have to get all the data on them. We have to know who they are, because there are probably, I don't know, a million Mohammeds or Ahmeds in Afghanistan. You have to really be specific, and we should follow them.

[Translation]

Ms. Francine Lalonde: So you were surprised not to find assurances in the agreement on what you've just said. You were surprised.

• (1650)

[English]

Ms. Eileen Olexiuk: Yes. Well, actually, it was a draft agreement, as you can imagine. But when I saw the real one online—I think in November I saw both of them—I noticed that it did not have this right of access.

[Translation]

Ms. Francine Lalonde: Do you think the risk of torture was great, not to say proven? At the outset, did that have an influence on the way the man in the street judged the allies and Canada?

[English]

Ms. Eileen Olexiuk: I'm not sure what the question means. I'm sorry, but you asked, what would the man in the street...?

[Translation]

Ms. Francine Lalonde: You said earlier that you were asked to report on what the man in the street thought. What did the man in the street think about the fact that the people Canada took as prisoners risked being tortured.

[English]

Ms. Eileen Olexiuk: Okay.

Let me tell you, they are so accustomed to this way of behaving that I'm not sure they would have thought any worse of us particularly. They did have Americans there before. They had just lived through a Taliban regime. They had lived through civil war. So when I say that violence and sometimes torture were almost a way of life for them for such a long time, I don't think they would have thought any worse of us.

[Translation]

Ms. Francine Lalonde: In other words, for them, Canada didn't mean anything different from the Taliban. Is that what you're saying?

[English]

Ms. Eileen Olexiuk: No, I can't say that. Of course, it would mean something different. But what I want to tell you is that the fact that the people who were detained were tortured by the Afghan authorities would not have been a big surprise to them. And I'm sure they would not have understood we had arrangements, and they would not understand what transfer agreements, and so on, were all about. I don't think so.

The Chair: Thank you very much. Your time is up on that question.

We'll move over to the government side and Mr. Obhrai.

Mr. Deepak Obhrai (Calgary East, CPC): Thank you very much, Mr. Chair.

Ms. Olexiuk, I agree with your statement. As the Parliamentary Secretary for Foreign Affairs, I deal with bureaucrats all the time and I can vouch for what you just said in your statement today, that they do the best thing for Canada in a non-partisan way. So I want to thank you on behalf of Canada and my colleagues.

The question here, Ms. Olexiuk, is a very important one. Canada went into the Afghanistan theatre, and it's very important that during your time there you issued a lot of reports. You brought in a lot of issues of human rights in the early time the government was there. Of course, you are saying, and I agree with you, that it's not partisan with you. But at that given time, the government in action was across the aisle, and one of the most senior members of that government, in that cabinet, is sitting right across from me. One would be very interested in knowing, what did he know? Today he stood up in the House of Commons and talked about the ICC, he talked about the Criminal Code, and he talked about the government knowing this.

My main question to you, in regard to your reports on this thing, is what did you tell the senior members of the government, in your view? Did you have a discussion or anything else? This is a very serious charge he has made. He's made a charge, not recognizing that he will be facing the same charges for the things you have just said today about their ignoring your reports on human rights abuses.

So perhaps you can tell us how much discussion did you have with the foreign ministers at that given time—Mr. Pettigrew and Mr. Bill Graham? How far did those go, and we would like to know how much deeper this abuse you talked about went to the Liberal government and the member sitting opposite here. What did he know about it? We will find out later on. We would like you to tell us now, in your view, how much do you think the government of the day knew about human rights abuses.

•(1655)

The Chair: Thanks, Mr. Obhrai.

Ms. Olexiuk.

Ms. Eileen Olexiuk: I reported to my department. I didn't report to the political side, if I could call it that. I didn't report to ministers. So you'd have to ask someone in the department how it went up the line, because I wasn't there.

Mr. Deepak Obhrai: So in your recollection, with all these human rights reports you issued and everything, and with the minister coming over there, you did not have any brief discussions with or talk to any of the senior members of the government. By that I mean the Minister of Foreign Affairs. You had absolutely no.... You did not express any of the concerns verbally to them.

Ms. Eileen Olexiuk: No, I did not.

Mr. Deepak Obhrai: Nothing. So it all went through the chain of command, as you have stated here. And it is your view that this government, as you said, totally ignored your concerns.

Ms. Eileen Olexiuk: Well, I felt that I didn't get any feedback, but that's in general.

Mr. Deepak Obhrai: I recall that you just talked about that agreement, which was subsequently done in 2005, and you did not see any of those.... Your real first report was done in 2002 and 2003. Yet in that report, in which you made it very clear—I want to make the point very clearly. You raised the concerns about human rights, which this government knew. Yet that did not go into the 2005 agreement as you saw it online, right?

Ms. Eileen Olexiuk: Yes.

Mr. Deepak Obhrai: It didn't go.

Ms. Eileen Olexiuk: The arrangements....

Mr. Deepak Obhrai: Which means that this government, knowing the fact that there were human rights abuses, did not take any action in regard to the detainees. I want that to go on the record, Mr. Chairman.

A voice: [Inaudible—Editor]

Mr. Deepak Obhrai: You had your day. Let me have mine.

I want to make it very clear. It's on the record that this government was aware of the human rights abuses to the detainees. And according to the witness who is here, she did not see this government take any action to put that member sitting there, who was a senior member of the cabinet, who should be facing charges too, as you so kindly put it....

I'm trying to understand and bring this thing.... I do understand.

You've done an excellent job of coming and saying what was there at that time. You have given us an excellent window into what transpired during that period of time, because to date we have not had the Liberal foreign ministers or anybody from the Liberal Party have the courage to come and sit over there and talk about the time of the detainee human rights abuses when they were in power. You are the first witness to come and show that, and I want that truly noted very well, Mr. Chair.

Now, in your view, when the 2005 arrangements, the transfer arrangements, came through, what, in your opinion, was the flaw in this agreement?

Ms. Eileen Olexiuk: That's just my opinion, because I knew maybe a little bit more about Afghanistan than some of the other colleagues around the table. I thought we should have had some right of access to the people we had detained and transferred and that we should have very clear identification of who these people were.

Mr. Deepak Obhrai: For the record, in 2007, when this government came with an agreement, we had that right to access, which is exactly what you're saying.

May I thank you once more, on behalf of everyone, for doing a great job for Canada.

Thank you.

The Chair: Thank you, Mr. Obhrai.

We'll go to Mr. Harris.

Mr. Jack Harris: Thank you, Chair, and thank you, Ms. Olexiuk, for coming and joining us today.

I was impressed with your approach and with your experience in Bosnia and other difficult places and also with your strong expression of acting in the interests of Canada.

I want to ask you a little about the interests of Canada, as a diplomat serving the country abroad in a non-partisan way. You talked about the medieval conditions in the jails there. You talked about the fact that it was well known in Afghanistan among you and I assume all the others in the diplomatic corps and in the various agencies. I guess it was no surprise to you that Mr. Colvin would be writing reports similar to yours describing these circumstances. Is that true, first of all?

• (1700)

Ms. Eileen Olexiuk: Well, it was quite different in that his reports seemed to be first-hand knowledge, whereas mine were a sum total of many opinions and published reports.

Mr. Jack Harris: But it's fair to say, though, that.... You wrote reports in 2002, 2003, and 2004.

Ms. Eileen Olexiuk: Yes, they were reports on those years. They came out in January the next year.

Mr. Jack Harris: And those reports would have been consistent in the sense that there are problems with the way they handle the rule of law in terms of how they handle prisoners?

Ms. Eileen Olexiuk: Yes.

Mr. Jack Harris: So that was well known.

Ms. Eileen Olexiuk: Yes.

Mr. Jack Harris: I wonder if you could just give us an opinion about the interests of Canada. You know what we're talking about here. We're concerned about what the circumstances would be if we had a situation in which Canada, which has its own obligations under international law, were taking prisoners in a combat situation and passing them over where there was a real risk of torture. This is obviously problematic in human rights law, but let's talk about the interests of Canada. What are the interests of Canada in avoiding that kind of circumstance?

Ms. Eileen Olexiuk: You mean in avoiding passing them over? I'm probably speaking out of school here, but—

Mr. Jack Harris: Give us your opinion as a long-term diplomat. What are the problems for the interests of Canada, as a nation, in passing over people where there is a real risk of torture?

Ms. Eileen Olexiuk: We had a very strong human rights image in the world in much of my career. I believe the Canadian public was very proud of that. I think it could have been tarnished if we knew we were passing people to a detention facility where there was torture.

Mr. Jack Harris: Thank you. I know we've been jumping all over the map in timelines here, but can we establish first of all that when you were there first, the Canadian involvement was through the small group in Kabul? It was the administration group. Is that correct?

Ms. Eileen Olexiuk: It was the embassy.

Mr. Jack Harris: I don't mean the embassy but the Canadian Forces involvement.

Ms. Eileen Olexiuk: The Canadian Forces were part of ISAF. They came in August. They had the theatre activation team in March or April of 2003. I was very involved with that, being the only Canadian there. The troops started filtering in from June 2003 and August. I believe that's when we took over command of the multinational brigade.

Mr. Jack Harris: It was only after that time that we started engaging in taking prisoners, then? You don't know.

Ms. Eileen Olexiuk: Honestly, I don't know.

Mr. Jack Harris: All right. Let's move to the period of time when we know that the first agreement, the transfer agreement, was signed, which was in December 2005. You were gone by then, but we were told there were negotiations and discussions going on for some time prior to that. That would have been happening before you left, obviously, because you saw the drafts.

Ms. Eileen Olexiuk: I saw the draft in Ottawa.

Mr. Jack Harris: You didn't see it while you were there?

Ms. Eileen Olexiuk: No, I saw it in Ottawa, in maybe November or something like that of that year.

Mr. Jack Harris: Okay. You said you were in the room, but you weren't the person responsible for approving these documents or negotiations. You mentioned certain people, but could you tell us the titles of these people? Who was doing the work in Ottawa?

Ms. Eileen Olexiuk: They weren't negotiating then. As I remember, the document came from the Department of National Defence for comment. The obvious people who would comment in a substantive way would be the human rights division and the legal affairs division, the legal bureau. It was sent to the area I worked in called START—the stabilization and reconstruction task force—which was just kind of getting up and running at that point.

• (1705)

Mr. Jack Harris: So the legal affairs division and the human rights division all looked at this. Did they approve...? Did you say you saw a draft at one time?

Ms. Eileen Olexiuk: I saw the draft, and I said, "I don't think we should be handing these people over to NDS". I thought we should keep as much information on them, to identify them, as possible.

Mr. Jack Harris: So you specifically identified NDS even early in the day as a problematic group?

Ms. Eileen Olexiuk: Yes.

Mr. Jack Harris: Why was that?

Ms. Eileen Olexiuk: Well, the reputation they had.

Mr. Jack Harris: What was the reaction when you suggested that handing them over to NDS was a bad idea and we should be monitoring or following them?

Ms. Eileen Olexiuk: I thought we should have some right to visit them. But you know, I'm not a lawyer or a human rights expert. It was my gut feeling as a nice little old lady that we should be able to go in and see what happened to those guys.

Mr. Jack Harris: But this nice little old lady was concerned about the reputation of Canada.

Ms. Eileen Olexiuk: Yes, but I was also concerned about these people. You see such terrible things in Afghanistan that I thought, let's not go there; let's not get into that.

Mr. Jack Harris: So you came up with this because of your own feelings and on your own initiative. Did you know at that time that other countries were negotiating transfer agreements that actually had monitoring in place?

Ms. Eileen Olexiuk: I didn't know that.

The Chair: Thank you, Mr. Harris.

Mr. Dechert, please.

Mr. Bob Dechert (Mississauga—Erindale, CPC): Thank you, Mr. Chair.

Ms. Olexiuk, thank you for appearing here today and sharing your experience with us. You mentioned a few minutes ago, and also in your human rights reports in 2002 and 2003, that there were serious concerns about human rights abuses in Afghanistan. I think you just said a few minutes ago, in response to a question from Mr. Harris, that you didn't think Canada should be handing over detainees to the NDS. You also told us it was common knowledge that these kinds of abuses went on in Afghanistan.

So if that was true, why do you think Canada would have entered into an agreement in 2005 to transfer prisoners to the NDS? You had made it abundantly clear in your report, right?

Ms. Eileen Olexiuk: I could ask you the same question, I guess. I'm sorry, I really don't know.

Mr. Bob Dechert: But you were there. You filed these reports in 2002, 2003, and 2004, consistently pointing out the problems with human rights abuses, yet the government of the day entered into a transfer agreement with NDS in 2005.

So why do you think it was drafted that way, and who would have made that decision?

Ms. Eileen Olexiuk: Sorry, I don't know.

Mr. Bob Dechert: Okay, let me ask you a question. It's been suggested that General Hillier signed the 2005 transfer agreement. Given your experience, do you believe this would have been a solo project conducted by General Hillier, or would there have been input from senior government officials and perhaps even ministers of the crown in something like that?

Ms. Eileen Olexiuk: As I said, I know there was input from my department, the Department of Foreign Affairs and International Trade. We were asked to review it and comment on it. I can't tell you how far up it went.

Mr. Bob Dechert: Does it make sense to you that the minister would have been aware that this agreement was being signed, or even that the decision was made to transfer prisoners to the NDS?

Ms. Eileen Olexiuk: I'm sorry, I don't know.

Mr. Bob Dechert: Would that make sense to you in a situation like this, given the common knowledge about human rights abuses that were going on in Afghanistan? Do you think somebody would have informed the minister that these kinds of things happen with the NDS, and perhaps that should be taken into consideration in negotiating an agreement? Does that make sense to you?

Ms. Eileen Olexiuk: It's not an agreement, first of all. It's not a legal document; it's an arrangement. The minister, as I recall—things may have changed, I've been out for a while—was always very aware of memoranda of understanding that were signed. They're not exactly legal, but they're stronger than an arrangement. An agreement is more like having treaty status, I think. The international lawyers can correct me on that.

• (1710)

Mr. Bob Dechert: You mentioned earlier that Justice Arbour knew about human rights abuses in Afghanistan—

Ms. Eileen Olexiuk: Oh, she did.

Mr. Bob Dechert: —and had mentioned it. Obviously senior levels of government and senior officials in Canada would have been aware that torture happened in Afghanistan. It was part of the culture, the style of government there at the time. So don't you think it makes sense that somebody at a very senior level of government would have at least been aware that was a risk?

You made these reports and they went to your senior officials in DFAIT. Do you think any of them would have been shared with the minister or his staff?

Ms. Eileen Olexiuk: You know, I don't know what happened to the reports after I sent them in. I'm sorry to be so blunt. I didn't get a lot of feedback. So you'd have to ask someone else about the chain of command.

Mr. Bob Dechert: Year after year you filed these reports raising the alarm about possible abuses in Afghanistan. From one year to the next, was there any report back to you from anyone in Canada that they acknowledged these reports, that they thought Canada should be commenting about those reports to the Afghan government or the NDS?

Ms. Eileen Olexiuk: As I mentioned earlier, I had one in the first year saying, "Thank you very much, Eileen, this was helpful."

Mr. Bob Dechert: Who was that from?

Ms. Eileen Olexiuk: It was a young fellow. He was in his first or second year at Foreign Affairs.

Mr. Bob Dechert: So you got something back from Foreign Affairs.

Ms. Eileen Olexiuk: His name was Luc something or other. Then a little later I got, "Thank you, this is very informative and helpful to understand" from another person.

Mr. Bob Dechert: Certainly people in Ottawa, in the Department of Foreign Affairs, were reading your reports and acknowledging them, at least, if not taking some action on them.

Ms. Eileen Olexiuk: Some were, I guess.

Mr. Bob Dechert: You mentioned that members of the Department of Foreign Affairs certainly would have been involved with the negotiation of that arrangement with the NDS and had some view of the document.

Ms. Eileen Olexiuk: Yes. I'm not sure how much negotiation went on, but the document was in our department for—

Mr. Bob Dechert: Would somebody in your department have raised a concern about no follow-up with prisoners after they had been transferred? Does that make sense to you?

Ms. Eileen Olexiuk: I don't know, honestly.

Mr. Bob Dechert: You don't know if it was done. Do you think it would have been reasonable for somebody at DFAIT to raise that concern at the time?

Ms. Eileen Olexiuk: I think it would have been reasonable, but we just didn't....

Mr. Bob Dechert: We know now that at the same time, Britain and the Netherlands entered into similar arrangements. In their agreements they have a follow-up procedure with the prisoners post-transfer to the NDS to see what happens to them.

Why do you think that was the case for those countries and not for Canada?

Ms. Eileen Olexiuk: I don't know. I didn't even know they had arrangements, so excuse me.

Mr. Bob Dechert: It sounds like somebody wasn't doing their job properly.

The Chair: Thank you, Mr. Dechert. I appreciate that.

Our time is basically up.

Ms. Olexiuk, could I ask you one question for a little more clarification? There was one meeting you were speaking about, and I'm not certain if it was in Afghanistan or after you came back. You were almost surprised that you were invited to the meeting. You didn't anticipate that you'd be able to contribute to it, but you were.

Do you recall giving that testimony here today?

Ms. Eileen Olexiuk: Yes.

The Chair: What meeting was that? Was that in Afghanistan?

Ms. Eileen Olexiuk: No, it was a meeting at Foreign Affairs here in Ottawa. I left Afghanistan in August and it was in maybe November or October 2005. I'm not quite sure. It was in the fall.

The Chair: You voiced some of your concerns there. Who all was at that meeting then?

Ms. Eileen Olexiuk: My gosh, I can't remember.

The Chair: It was with your department, though. That's my point.

Ms. Eileen Olexiuk: Yes. I know that my director general was there. I'm so sorry, I can't picture who was around the table.

The Chair: I wasn't certain if that was a meeting that took place while you were still stationed in Afghanistan or once you were back here.

• (1715)

Ms. Eileen Olexiuk: No, I was here.

The Chair: Anyway, thank you very much for your testimony here today.

Although the bells aren't ringing yet, at 5:15 they will start. If Mr. Dosanjh or someone else wants to continue until the bells start, we'll give you some more time.

Hon. Bob Rae: Just to continue the discussion, I'm trying to get a sense. Did you see the draft of the original transfer agreement when you were in Kabul, or in Ottawa?

Ms. Eileen Olexiuk: I saw it in Ottawa.

Hon. Bob Rae: Okay, and it was a draft that came from DND.

Ms. Eileen Olexiuk: I think so. I'm sorry. I assumed it had. It didn't look like something completely—

Hon. Bob Rae: I'm sure we can track it down.

Were you aware of any debate or lively discussion between the different people or different departments about this question? Were you privy to or did you hear any sort of corridor chat about the fact that there were real arguments going on as to what kind of agreement should be signed and shouldn't be signed?

Ms. Eileen Olexiuk: I'm sorry, Mr. Rae. I was not aware of any of that.

Hon. Bob Rae: Okay, that's fine. Thank you very much.

The Chair: Thank you very much.

As you can tell, the bells are ringing now. I will remind the committee that at the next meeting we will have three former Canadian ambassadors to Afghanistan. They will be here next Wednesday.

Ms. Oleksiuk, thank you for coming today and thank you for your testimony. We appreciate your attendance.

We're adjourned.

MAIL  POSTE

Canada Post Corporation / Société canadienne des postes

Postage paid

Port payé

Lettermail

Poste-lettre

**1782711
Ottawa**

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

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

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

SPEAKER'S PERMISSION

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

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

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

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

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

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

PERMISSION DU PRÉSIDENT

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

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

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

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

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