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Chair

Mr. Scott Reid

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

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• (1305)

[Translation]

The Chair (Mr. Scott Reid (Lanark—Frontenac—Lennox and Addington, CPC)): Today is September 27, 2012, and this is the 47th meeting of the Subcommittee on International Human Rights of the Standing Committee on Foreign Affairs and International Development. We are studying the human rights situation in North Korea.

[English]

Today we have three witnesses with us from the Department of Foreign Affairs and International Trade. They are Graham Shantz, director general of the North Asia bureau; Alain Gendron, director of the Northeast Asia division; and Rebecca Netley, deputy director of the human rights and governance policy division.

Just to refresh the memories of those who were here before and to remind those who are new to our subcommittee, we have one-hour meetings, so time is of the essence. We usually have excellent presentations and not enough time to get out all the questions and to get the fulsome answers that we would want.

We'll have our presenters give their presentations. Based on how much time is left, I will remind you of how much time is available for our questions. If we are respectful of the times—and remember, the time includes questions and answers, so let them do the talking—then we'll be able to have everybody go around and get an equal amount of time. I'll let you know how much time is available for each round of questions.

That being said, I turn now to our witnesses.

I invite you to begin your testimony. Thank you.

[Translation]

Mr. Graham Shantz (Director General, North Asia Bureau, Department of Foreign Affairs and International Trade): Thank you, Mr. Chair.

Ladies and gentlemen, thank you for the invitation and the opportunity to discuss the current human rights situation in North Korea.

As you no doubt know, North Korea has been the source of many concerns to our government and to Canadians. Canada is troubled by its aggressive and belligerent behaviour, its role as a nuclear proliferator and the human rights situation, among others.

[English]

As stated by Minister Baird last year, “Canada has not—and will not—hesitate to oppose the combative and provocative actions of the North Korean regime. We urge its leaders to implement real reforms and live up to their international obligations....”

There have been numerous reports of arbitrary detentions, public executions, the use of torture, reports of forced abortions in labour camps, the application of collective punishment, cruel treatment of repatriated asylum seekers, and the indefinite holding of political prisoners. The lack of freedom, including the lack of freedom of religion, is absolutely deplorable.

The Government of Canada is an unfailing champion of the cause of North Korean human rights and takes every opportunity to support international action on this issue, whether it is at the United Nations, the Human Rights Council, or in other multilateral fora. The plight of ordinary North Koreans, who suffer from continuing food shortages under a reckless regime, is well known. It is regrettable that a country unable to properly feed its own people would spend so much of its resources on weapons.

As a means to express its deep concern related to the attacks perpetrated by North Korea, and also to address the deplorable humanitarian situation in North Korea and respond to the systematic abuse of the population, Canada adopted a controlled engagement policy in October of 2010. Under this policy, official bilateral contact with the North Korean government is limited to subjects concerning, first, regional security concerns; second, the human rights and humanitarian situation in North Korea; third, inter-Korean relations; and finally, consular issues. It is in this spirit that Canada has not yet accredited its ambassador to North Korea.

[Translation]

In August 2011, the Government of Canada invoked the Special Economic Measures Act, or SEMA, to impose additional sanctions against North Korea. The SEMA prohibits trade, investments, financial services and the transfer of technology between Canada and North Korea. These sanctions are meant to target the government, not the people.

Canada has taken a clear and firm position on the human rights situation in North Korea. The Canadian government has consistently raised concerns both domestically and in the international arena, and will continue to do so.

• (1310)

[English]

As mentioned in Minister Baird's address to the UN General Assembly last year, Canada temporarily boycotted the Conference on Disarmament to protest North Korea's term as president, given the regime acting as a major proliferator of nuclear weapons and its non-compliance with its disarmament obligations.

Canada also enforces existing UN sanctions adopted by the Security Council. The first, Resolution 1718, was adopted in 2006 in response to a claim by Pyongyang that it conducted a test of a nuclear weapon. Resolution 1718 prevents a range of goods from entering or leaving North Korea and imposes an asset freeze and travel ban on persons related to the nuclear weapon program.

The second, Resolution 1874, was adopted in 2009 in similar circumstances. It tightened the measures in the previous resolution. Canada welcomed the adoption of this resolution, as it demonstrated the strong and united response of the international community to North Korea's unacceptable actions. Resolution 1874 condemned in the strongest terms North Korea's nuclear test and demanded that the country immediately and fully comply with its obligations under previous UN Security Council resolutions.

Canada has been vocal in condemning the actions of this rogue regime. Between 2009 and 2012, there have been over twenty ministerial statements or references in the ministers' speeches on this situation.

On September 17, 2012, the minister issued a statement condemning the political prison camps in North Korea and requested information on the fate of Ms. Shin and her two daughters, as stipulated in the government response to the second report of the Standing Committee on Foreign Affairs and International Trade.

Mr. Chair, in the interest of time I will hand over to my colleague to make some comments on a commission of inquiry, which I believe is the issue at hand for your committee.

The Chair: That's correct. Thank you.

Ms. Rebecca Netley (Deputy Director, Human Rights and Governance Policy Division, Department of Foreign Affairs and International Trade): Thank you, Mr. Chair.

As Mr. Shantz has indicated, Canada strongly condemns the human rights situation in North Korea. With respect to the multilateral human rights front, Canada co-sponsors and is actively engaged, working for stronger language, in both the resolution at the UN General Assembly and the resolution at the Human Rights Council on North Korea's human rights violations.

Canada also maintains a dialogue with like-minded countries, including with the United States and South Korea, on multilateral human rights issues with respect to North Korea and engages with these partners in preparing for the resolutions at the UN General Assembly and the Human Rights Council.

I understand we are here today to consider the question of a commission of inquiry. Commissions of inquiry, as members likely know, are generally used in the context of the rapid onset of gross and systematic violations, such as the situations in Libya, Darfur,

and currently Syria. The mandates vary, but commissions of inquiry often have a fact-finding mandate along with a mandate to make preliminary determinations as to whether violations of human rights or humanitarian law have occurred.

Commissions of inquiry are usually established by the UN Security Council or by the Human Rights Council through resolutions, which are often very controversial and divisive and which generate vote calls.

It has also been possible in rare circumstances for the UN Secretary-General to establish a COI under his own auspices, but this has normally been at the request of the state of concern.

Generally speaking, however, there are concerns regarding the utility of a commission of inquiry in the context of the North Korean situation. It is not clear what additional information would surface that has not already been flagged by the current special rapporteur for the human rights situation in North Korea, Marzuki Darusman. North Korea would not grant access to a commission of inquiry, making it very difficult for the commission to have contact with victims and witnesses. This would greatly reduce the effectiveness of the commission of inquiry.

There are also concerns regarding whether or not, should a request for a commission of inquiry be sought in any one of the bodies, the request would be successful in the resulting votes that would be required. This makes the situation even more challenging.

By way of an alternative to a commission of inquiry, there is currently work being done by Special Rapporteur Marzuki Darusman on a comprehensive report likely to be tabled at the March session of the Human Rights Council. It is expected to be very comprehensive and to respond to some of the issues that were raised by the International Coalition to Stop Crimes Against Humanity in North Korea in some of the work they have done over the last year in arguing for a commission of inquiry. We understand that this report will include a specific focus on arbitrary detention; enforced and involuntary disappearances; torture and other cruel, inhuman, or degrading treatment or punishment; and executions.

Thank you.

• (1315)

The Chair: Thank you.

Is there any further commentary or are we ready to go to the questions?

Thank you very much.

You've made very good time. We have 45 minutes. There are six people who want to ask questions, so that gives us seven minutes each if we're all pretty good about it.

Let's go to Mr. Sweet to start.

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

Thank you, witnesses, for being here today.

I think what I'll do is try to get some background before my other colleagues get to direct questions regarding a commission of inquiry and what that may mean.

I would like to ask this right off. You mentioned that the rapporteur has not had access inside North Korea and yet you mentioned that the report was comprehensive. I think that was the word you used. Help me. Of course the report hasn't been tabled or published, but how could it possibly be comprehensive without any access inside the country?

Ms. Rebecca Netley: As we understand, this report will be different from other reports that the special rapporteur has issued to date in that it will involve consideration of all of those issues that I listed: the arbitrary detention; the forced and involuntary disappearances; torture and other cruel, inhuman, or degrading punishment; and executions. In that sense, it will be more expansive than the reports the special rapporteur has produced to date. This is the difference.

This is why the term “comprehensive” has been applied to this report and why it has been differentiated from the previous reports that the special rapporteur has issued. But no, he has not had access to North Korea, although I do believe he is able to speak to individuals who are outside the country.

Mr. David Sweet: Thank you.

Mr. Shantz, you mentioned CIDA. I can't remember whether you referred to it or if it's just in your notes and you didn't get that far—yes, you did.

Mr. Graham Shantz: I'd be happy to speak to it if you want. In the interests of respecting the chairman's instructions on time, I truncated the presentation, but I'd be pleased to talk—

Mr. David Sweet: It's okay. There are just a lot of dollar figures here. What is the nature of that aid? I understand it's being delivered by NGOs, but none is going to the Government of North Korea. What's the nature of that aid? Is it all food?

Mr. Graham Shantz: Yes, and in answer to your earlier question to my colleague, obviously it's a closed regime, as we all know, so you have limited options in terms of either trying to document systemic human rights abuses or in fact engaging with North Koreans—I don't want to say the North Korean government. In fact, in terms of the Canadian International Development Agency contributions, it's humanitarian assistance and it's designed for urgent relief needs. It does not go to the government. It is channelled through two international organizations: the UN system and the Red Cross movement.

To date, in 2012, this year, CIDA has provided \$7 million to the World Food Programme, its emergency food operation in North Korea, and an additional \$1 million to UNICEF in support of its work to treat acute malnutrition in young children. Since 2008, Canada has provided \$15.6 million in humanitarian assistance to North Korea, all of it through experienced international organiza-

tions. To be clear, CIDA does not provide any humanitarian assistance directly to the Government of North Korea.

I hope that answered your question.

• (1320)

Mr. David Sweet: Yes, it did.

The nature of that is primarily food. Is there any medicinal aid in that regard as well?

Mr. Graham Shantz: All I know is that it's humanitarian assistance, and I'm confident of the food, sir. I don't want to make a claim with respect to medicine. I just don't know. But we can get back to you if you wish.

Mr. David Sweet: You brought up the clear observation that this is a very closed society, a closed nation in this regard, with a very tight cap on it. We dealt with Eritrea recently and we're seeing the same kinds of concerns.

Are we making any headway with our relations with China in regard to North Korea and some movement? I'm certain that North Korea also presents to them a destabilizing concern on their border as well.

Mr. Graham Shantz: I can't speak for China, but clearly it's preoccupied with the situation in North Korea because of the possibility of refugees coming over its borders, in fact, which again raises concerns for Canada in terms of how China would treat North Korean refugee claimants or North Korean refugees.

From our perspective, we're working with like-minded countries to express the Government of Canada's concerns with respect to the human rights situation in North Korea. We're working with like-minded and allied countries, and with respect to North Korea and its treatment of its citizens, we don't hesitate to raise issues of concern with many of our bilateral partners, including China.

Mr. David Sweet: There are two major concerns, of course—human rights, which we're primarily talking about here today, but the nuclear aspect is also of grave concern. You alluded to that in your remarks.

Are there any exceptions in the western world? Is everybody treating North Korea with this...? We have this seam of modified relation with them. Is that primarily the status quo with most of the western nations?

Mr. Graham Shantz: I think most western nations are responding to the UN Security Council resolutions.

In terms of our response, we were clear both in enforcing our obligations under the resolutions but also in putting a policy framework in place, which we call “controlled engagement”, as I had mentioned in my presentation.

In terms of implementing the obligations under the Security Council resolutions, we're not alone. I think in terms of expressing our view with respect to the human rights situation in North Korea, we're clearly and consistently expressing what we believe to be a deplorable situation in North Korea.

Mr. David Sweet: I was trying to get to one thing specifically. What we discovered—and Professor Cotler was certainly very concerned about that when we were talking about Iran—was that there was lots of agreement and lots of engagement with regard to nuclear, but we didn't have that much momentum in the other western nations with regard to human rights.

Do you see a difference with North Korea? Do you see the same level of passion and engagement in most other western nations towards the human rights violations in North Korea, or is it primarily with the nuclear threat from this nation?

Mr. Graham Shantz: On human rights, I think Canada is clearly in a leading position, and we're clearly in a leading position expressing our views. We're not alone; I don't mean leading in... We're not alone, but we're clear in our expression on that.

On the nuclear issue, in terms of our own view, the resolutions were with respect to...were coming out of North Korean's regime in terms of its nuclear program. So there's consensus in the international community in that sense.

Our views on North Korea's nuclear program are clear. I know other of our like-minded partners are very concerned about it. There are the six-party talks trying to deal with a range of issues but specifically the nuclear situation on the Korean peninsula.

In terms of the sanctions' effect, the effect is to express clearly to the North Korean regime the international community's objection to its behaviour and its nuclear program.

The Chair: Mr. Sweet, you're out of time.

Mr. Marston, please.

Mr. Wayne Marston (Hamilton East—Stoney Creek, NDP): Thank you, Mr. Chair. I just have to let you know that I have an SO 31, so I'll have to duck out a little bit before the end of the meeting.

Welcome. I'm pleased to hear your testimony.

About five years ago, maybe four, I was with the foreign affairs minister on the DMZ. We went down to the partition area, right where the line was. Of course, some of the North Korean soldiers came down—from here to the chair—with binoculars, looking at us. It was very ironic to see. The shocking thing was how tiny the soldiers were. Most countries feed their military first, and these people were just racks of bones. I can't imagine what life is like for the ordinary citizen.

I've done some work with the North Korean human rights council out of Toronto. They talked about people who escaped from North Korea into China. You mentioned that in your remarks. Their testimony to us was that the people quite often are bounced back into North Korea by the Chinese. They're not kept there at all.

I'll leave that thought with you. You might want to respond if you have information on that.

Beyond that, the commission of inquiry.... You know, we have this responsibility to protect. Pardon my way of expressing this, but there are some very grand pronouncements in the international community of what we would or wouldn't do under certain circumstances. But with the situation and our last experience in Korea, with the intervention of China 50 years ago....

Is it 60 now? My goodness, I'm aging rapidly here.

The thing is that, realistically, I can't see the international community pushing too far on this for that reason. I think it was Mr. Sweet who was referring to the fact that China had doubts, or appeared to have doubts, towards North Korea.

Is there any evidence that North Korea is becoming more isolated, even from China?

• (1325)

Mr. Graham Shantz: On your first question, 60 years is the armistice next year, in 2013.

Mr. Wayne Marston: It occurred to me as I said it.

Mr. Graham Shantz: With respect to North Korean refugees and China, we call on the Chinese government to respect its obligations under its international refugee obligations, and obviously that's of concern in terms of how refugees would be treated.

With respect to—I don't know what you would call it—shoots of hope or something, there was a regime change recently in North Korea, as we all know, and the question is, effectively, do the Chinese view this as leading to some hope? I guess it becomes almost a triumph of, potentially, hope over experience. There are some people who would claim that the fact the new leader of North Korea has appeared with his young wife, who happens to have an expensive purse, is a sign of hope.

I don't know how the Chinese would interpret all of that. There have been I think recently some comments in the press about the possibility of special economic zones in North Korea. We all know that there is already one at the border that you were at, just around that area, with South Korean investment in North Korean territory—

Mr. Wayne Marston: Well, it was interesting. There's a train station that they've built there. They built a rail line up, and it ends right at the DMZ, where they have a train station built and fully prepared for the event of reunification if the north builds to meet them. The amounts of money that were put into it led you to feel that at least somebody thought there had been some significant hope at some point in time.

Mr. Graham Shantz: Again, I think the government's view is to be clearly in front and leading in terms of what we view the North Korean regime should do to protect the interests of its own people.

You raised the issue of height. I am told from reliable sources that the difference is four inches in height between North Koreans and South Koreans. A senior South Korean official says no, that it's actually five or six now, so who knows?

Mr. Wayne Marston: It struck you as if you had a 14-year-old child across from you. That's what it felt like when they came close.

On the six-party talks, is Canada one of the contributors?

Mr. Graham Shantz: No, we're not. We're not a participant in the six-party talks.

Mr. Wayne Marston: It seems to me, from what I've heard of the talks, that they're more of a pre-emptive to try to control the nuclear situation as opposed to anything beyond that. Is that your sense of the talks?

Mr. Graham Shantz: I'm really not qualified for the context. It clearly, however, is an issue of importance for international peace and security in north Asia, so that the parties involved in the six-party talks oftentimes have difficulty agreeing on the agenda, agreeing on a meeting, or agreeing on a location for a meeting. So I think it's a fluid agenda. What I would say is that it's clearly targeting the nuclearization issue and it's also clearly targeting peace and security in north Asia.

Mr. Wayne Marston: How's my time, Mr. Chair?

• (1330)

The Chair: You have one minute and 15 seconds.

Mr. Wayne Marston: Well, that's not so bad.

I want to come back to the commission of inquiry. If we have a commission, if that's created by the United Nations under a resolution in the United Nations.... My understanding—and I may be mistaken on this—is that the talk of a commission came out from the secretary-general, but not from the United Nations itself. It was just a commentary, as opposed to a resolution.

If it were proposed as a resolution, do you think it would have a chance of getting past China?

Ms. Rebecca Netley: Thank you for the question.

In terms of where the talk first came from for a commission of inquiry, I can't be specific. I know that one source for sure was the International Coalition to Stop Crimes Against Humanity in North Korea, that NGO network. I'm not familiar with any reference that the secretary-general himself may have made to a commission of inquiry.

In terms of whether or not China would veto a commission of inquiry, I think that seems likely. Of course, that is an issue in the Security Council only where China exercises a veto as a permanent member, but as I alluded to in my opening statement, there would certainly be other challenges related not only to China but with respect to other countries. There could potentially be other challenges even if it were raised not in the Security Council but in another venue.

Mr. Wayne Marston: Well, I'm not surprised in the context of China's record on human rights. It's not that much more glowing than what it is in North Korea.

The Chair: Unfortunately, that minute and 15 seconds has disappeared on us.

Mr. Wayne Marston: I thought it might.

Thank you.

The Chair: Mr. Albrecht, please.

Mr. Harold Albrecht (Kitchener—Conestoga, CPC): Thank you, Mr. Chair.

I'll start with just a little bit of a disclaimer. This is my first opportunity to be part of this group, and I'm certainly very much looking forward to it.

I enjoyed reading through the background material, and I enjoyed your opening comments. I enjoyed them in the sense that it was informative, but I was disturbed by them in terms of the severity of the situation. Obviously this committee was seized with that last year

when they made a recommendation to the foreign affairs committee that these two recommendations be adopted. The second one now comes back to us to reconsider the idea of a commission.

You pointed out clearly in your opening statement, Ms. Netley, the reasons for the hesitance of having a commission—the questions of what additional information might we find in addition to what the special rapporteur has found, North Korea not giving access, and wondering whether or not the request would actually be granted by the body considering the request.

I'm wondering if there's a fourth consideration we need to be aware of. I don't know the answer to this. I really do need your perspective. What are the implications of us asking for that with our neighbours, whether it's the U.S. or Japan or other international players? Are there also considerations that we should be aware of before we would make a move such as requesting a special commission of inquiry?

Ms. Rebecca Netley: Thank you, Mr. Albrecht.

Certainly a first step in any multilateral initiative is to consult one's like-minded cohorts and to ensure that there is support amongst the like-minded before proceeding.

So that would certainly be a first step of any country that wanted to pursue a COI initiative on North Korea, to talk to the like-minded. In this case, that would certainly include the United States, South Korea, and Japan.

Mr. Harold Albrecht: Just to follow up on that, do we have some proactive insight into how they may or may not respond to our request, should that come? Or is that an unfair question?

Ms. Rebecca Netley: Sorry, I didn't hear the question.

Mr. Graham Shantz: It's okay. Maybe what I'll do is talk a little bit about what we're doing with our allies, including the United States.

I think that may get, with your permission, to a bit of the kernel of the question, which is a very important question in terms of any contemplation of international action or joint action.

We are constantly in dialogue with key allies, including the United States and South Korea, regarding the human rights situation and the security situation in North Korea. Officials from this department were invited by U.S. Ambassador Robert King, who is the U.S. special envoy for human rights in North Korea, to join 16 other participants, including the European Union, into a strategy session to discuss options for advancing human rights in North Korea. These discussions are still exploratory, but they represent a positive step in a coordinated approach.

Now, I raise it in the context of your question, because others clearly also want to act to address the deplorable situation of human rights in North Korea. We're working with them in trying to find the method, the mechanism, the tool that is best able not only to express our concerns but hopefully try to see real change for North Koreans.

• (1335)

Mr. Harold Albrecht: Thank you.

I think that brings me to my final question. I probably won't use all my time.

Obviously all of us around this table are concerned about what's happening. We all want to express our displeasure in the strongest terms. But at the end of the discussion, hopefully there will be more than just discussion, and there will be action.

If you were to give recommendations to Canada at this point, if you're suggesting the special commission is not the way to go, what is the best way forward in terms of Canada not just expressing its displeasure but having a pretty good hope that there will actually be action at the end of the discussion?

Mr. Graham Shantz: Sir, again I would go back to the triumph of hope over experience. I mean, I think we have to be consistent in our views. We have to be persistent and to clearly have our objective in mind, which is ultimately better treatment of North Koreans. We need key allies to consult with and to share with on the design of how we can best achieve those results.

I wish I had an easier answer.

Mr. Harold Albrecht: I didn't think there would be one.

Mr. Graham Shantz: I wish I had a way that you could say it would happen tomorrow.

I think it certainly is the government's view to be a consistent voice in advocating for the human rights situation of North Korea across the full range of rights. We will need to work with others. South Korea clearly has a huge stake in this, as do other of our allies, including the United States. So we will continue to work with them and to consult with them to try to figure out a way that we can try to get real change on the ground.

Thank you very much.

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

Mr. Cotler.

Hon. Irwin Cotler (Mount Royal, Lib.): Thank you, Mr. Chairman.

I would like to ask the witnesses and anyone who can answer this question whether we are in a situation of the "responsibility to protect doctrine" framework. In other words, if the responsibility to protect is that wherever you have a situation of war crimes, crimes against humanity, ethnic cleansing, or, God forbid, genocide, and the state in question is unable or unwilling to do anything about it, or in fact is the author of that criminality, then this invokes the responsibility to protect doctrine. Would you believe we are in a situation of that with regard to North Korea?

Ms. Rebecca Netley: Unfortunately, I'm not able to comment on that particular question today. I apologize.

Hon. Irwin Cotler: Let me just put the question again. I understand that responsibility to protect has been a policy of not simply the Canadian government, but we signed on to it at the UN General Assembly and Security Council, so what is our position with respect to the responsibility to protect as a normative doctrine?

Mr. Graham Shantz: Well, I'll answer with respect to North Korea. The human rights violations are terrible. They're systemic. The regime is undertaking actions that are clearly detrimental to the health and well-being and the political liberties of its people.

From the government's perspective, the government will continue to be a powerful voice advocating for the North Korean government to fulfill its obligations and to treat its citizens better.

Hon. Irwin Cotler: Let me, if I may, just put the question more directly, because I just had a sense that somehow there may be some equivocation on this. Does the Canadian government endorse the responsibility to protect doctrine?

Mr. Graham Shantz: Professor Cotler, it's beyond what we came here to talk about, which was the situation of human rights in North Korea and a commission of inquiry, which is what we were prepared to speak to.

• (1340)

Hon. Irwin Cotler: Well, I think the question of the situation of North Korea is inextricably bound up with the responsibility to protect doctrine, so I'm proceeding from the basis of where do we stand with respect to this doctrine, generally speaking, and where do we stand with respect to the application of this doctrine to North Korea? I think my questions are fairly clear.

Mr. Graham Shantz: In terms of the government's position with respect to its relationship with North Korea, we have the controlled engagement policy, which limits us to the four areas I've mentioned in my earlier remarks, and that forms the foundation of the government's policy with respect to North Korea, in addition to our constant advocacy with respect to the deplorable human rights situation in North Korea.

Hon. Irwin Cotler: Let me just rephrase it.

We had been one of those at the forefront of having the responsibility to protect doctrine invoked and then applied at the United Nations itself. Is there any change in our policy with respect to that position? I seem to sense in the responses that there may have been a change, which is fair, as governments are entitled to have changes.

But I sense in the fact that there's no direct response to the question as to whether we still support the responsibility to protect doctrine, and whether we would support it with respect to North Korea, that there appears to be an equivocation on this.

Mr. Graham Shantz: I'm not the expert in responsibility to protect. I am prepared to speak to Canada-North Korea relations, and we're prepared to speak to the commission of inquiry.

With respect to how one would want to see change in North Korea, the policy of the government is clear in the sense of our controlled engagement policy, our willingness to discuss with North Korean officials only in four areas, and the government's desire to continue to express Canada's strong views with respect to the deplorable human rights situation in North Korea.

Hon. Irwin Cotler: Let me just ask you, then, if I may, another question in that regard within your framework as you put it before us.

Canada presumably supported—again, from my appreciation—a commission of inquiry with respect to Burma at the time in 2010 before the situation in Burma began to be improved. I think the campaign at the time for such an international commission of inquiry may have helped in having the situation in Burma improve.

Does the government support now the establishment of a commission of inquiry? I understand the hesitation with respect to having one emanating from the UN Human Rights Council. I understand the hesitations with regard to questions of concern re access, but what about one that would be established, if it could be, under the auspices of the UN Security Council, since the meeting of the Geneva Academy of International Humanitarian Law and Human Rights said that with respect to such commissions of inquiry, this was the preferred option to begin with?

Ms. Rebecca Netley: I think our view with respect to establishment of a commission of inquiry under the Security Council is that it would be unlikely to be successful because of the strong likelihood that one of the permanent five, obviously Russia or China, would veto that. I think that's our position with respect to a commission of inquiry established under that body.

I can't comment today; I don't think we have a strong position on.... As Mr. Shantz has pointed out, we consider the situation in North Korea to be deplorable, and we work, in all the ways that he has pointed out, to do action with respect to that. But I think we also have concerns that a commission of inquiry wouldn't necessarily allow additional information to surface, and, given the good work of the special rapporteur, we're unclear what more would be offered by a commission of inquiry that's not already offered by the work that the special rapporteur is doing.

Hon. Irwin Cotler: I may have time for one last one.

Why would the situation in Burma have allowed for Canada supporting it at the time, Burma being what it was then, in 2010, and not feel the same way with regard to North Korea now? It would seem that the situation in both countries, including access, if it warranted a commission of inquiry in Burma in 2010, would certainly warrant such a commission of inquiry with regard to North Korea in 2012.

• (1345)

Ms. Rebecca Netley: Unfortunately, I'm not able to comment exactly. I'm not familiar with exactly what the situation was with respect to Burma at the time and what our positioning was. I'm just familiar with what we've talked about today with respect to North Korea.

Hon. Irwin Cotler: Thank you.

The Chair: That was well timed. You've just run out of time.

Now we turn to Ms. Grewal, please.

Mrs. Nina Grewal (Fleetwood—Port Kells, CPC): Thank you very much, Mr. Chair.

Good afternoon, and thank you very much for appearing before our subcommittee.

The Geneva Academy of International Humanitarian Law and Human Rights finds that commissions established by the Security Council are proven more likely to gain access and state cooperation as compared with commissions established by the Human Rights Council. So it is deemed more effective to go through the Security Council than the Human Rights Council.

When we request the secretary-general to appoint a commission of inquiry, do we know which body of the UN this will ultimately be

referred to, the Security Council or the Human Rights Council? And if it is the Human Rights Council, should Canada then in fact hold off and reconsider a means by which to refer our request directly to the Security Council to ensure that the commission of inquiry ultimately will have more teeth?

What do you say on that?

Ms. Rebecca Netley: Thank you, Ms. Grewal.

The way it actually would work is that a commission of inquiry could be established under one of four bodies. The secretary-general himself could, under his own auspices, appoint a commission of inquiry, but as we understand it, this has only happened when the state in question has been in agreement with the establishment of the commission of inquiry. The two examples of that were Timor-Leste, I believe, and Pakistan after the assassination of prime ministerial candidate Bhutto.

Another way in which a commission of inquiry could be established is, as you said, the Security Council, but I think I've already noted that there are some challenges with respect to the Security Council because of the possibility that one of the permanent members would veto.

A commission of inquiry can also be established under the Human Rights Council. That would be done by way of a resolution brought by a member state. Then it would likely be voted by the 47 members of the Human Rights Council. It's not the secretary-general who would choose the route by which a commission of inquiry would be established. It's really the member states that are bringing the initiative to one of those UN bodies.

The other way in which a commission of inquiry could possibly be established would be under the General Assembly itself, although we understand that this has rarely been used. It's mostly been under the Security Council or under the Human Rights Council, as you pointed out. Under the General Assembly, you still have the challenges with trying to obtain broad-based support. Again, under the General Assembly, it would be the same sort of mechanism as under the Security Council or the Human Rights Council, where a state would bring the initiative to the body in question.

Mrs. Nina Grewal: Mr. Shantz, do you have any comments?

Mr. Graham Shantz: What I hear is the thrust of all questions, which is, how do you effect change in North Korea? I think in terms of your questions about the instrumentation—which instrument is going to be more effective, effectively more supported—again, the government's position is that we're going to work with our allies. South Korea clearly has a keen interest in this, and the U.S. does, and other nations, as well, have an interest in how we can effect change in North Korea.

I think it is very important that the government be seen to be vocal in terms of expressing its views in general, and in specific terms about specific cases in North Korea, and trying ultimately to effect change.

Mrs. Nina Grewal: Could you please describe how Canada has participated in or contributed to the United Nations action that aims to halt crimes against humanity, or war crimes, genocide, or serious human rights violations in other countries?

•(1350)

Mr. Graham Shantz: I'm sorry, I'm not prepared to speak to that today, but if you wish we can get back to you on that.

Mrs. Nina Grewal: Sure.

My other question is, in your view, how well documented are the allegations that North Korea is committing crimes against humanity and serious human rights violations?

Mr. Graham Shantz: In the first questions that were asked, I think the challenge is access. It's very difficult with a closed country to be able to provide first-hand accounts. We are limited, as my colleague described in the work of some of the United Nations special rapporteur, to accounts of people who have gotten out, or of their own experience—their own horrors, if you will—or their own accounts of others who have been persecuted in North Korea.

It is difficult work; it is not easy. The challenge that I think Canada faces in a lot of countries where there are gross and systemic human rights violations is one of documentation. Human rights workers will tell you as well that it's access and documentation to build the case. We think the case is pretty clear in the case of North Korea.

Mrs. Nina Grewal: Thank you, Mr. Chair. I'll stop my time and pass it on to Mr. Sweet.

The Chair: Do you have more questions, Mr. Sweet?

Mr. David Sweet: Sure, if there's a moment left.

The Chair: You have one minute.

Mr. David Sweet: Then just quickly, when was the special rapporteur's report due to be published?

Ms. Rebecca Netley: The report that I referred to, the special enhanced report, is due to be published in February 2013 in advance of the March session of the Human Rights Council, which I believe is in the first few weeks of March.

Mr. David Sweet: After that report is published and we see the magnitude and the recommendations therein, would you think that would be a good time to reassess whether a commission of inquiry would be appropriate?

Right now I think one of the concerns is not to be an impediment to the rapporteur's work. After that's published, would it be reasonable to revisit that?

Ms. Rebecca Netley: It's true that one of the concerns is not being an impediment to the rapporteur's work, but the utility of a commission of inquiry, given that we already have a special rapporteur... I think that report, as I said, will be very comprehensive, so we hope it will shed some light on the situation and possibly point to other things that can be done.

I know there's a lot of anxiousness about seeing that report and that governments will consider it carefully, so in that sense it will be a time to evaluate where we stand in terms of multilateral mechanisms for addressing the situation of human rights in North Korea.

Mr. David Sweet: Thank you.

The Chair: Thank you.

M. Jacob, s'il vous plaît.

[Translation]

Mr. Pierre Jacob (Brome—Missisquoi, NDP): Thank you, Mr. Chair. I want to thank the witnesses for meeting with us today.

During your presentation, you said that at the United Nations General Assembly last year, Canada co-sponsored a resolution expressing serious concern about systematic, widespread and serious violations of civil, political, economic, social and cultural rights in North Korea.

You also strongly urged the North Korean government to take specific measures to fully respect all fundamental rights and freedoms.

You went on to say that North Korea's totalitarian regime has violated the basic rights of its citizens for decades, inflicting tremendous suffering on the North Korean people. You said the regime has left the country isolated, and its people oppressed and poverty-stricken.

My question is for all three department officials. What, in your view, is the most effective way for the Canadian government to apply pressure to bring about more protection for the North Korean people and their human rights?

•(1355)

Mr. Graham Shantz: First off, the government must make itself heard on the issue of human rights in North Korea. That means that both ministers and the Prime Minister need to make their position clear when it comes to human rights in North Korea. That is Canada's position. And we have to be very clear about that. Certainly, I would say that Canada's position is clear.

Second of all, we must work with our friends and partners in the United Nations, and even the 12 or 13 countries that are very concerned about the human rights situation, in order to apply pressure on the North Korean government.

Lastly, we must explain the Canadian government's position clearly and formally through our diplomatic contact with the North Korean government. For instance, Canada recommends a four-pronged engagement policy, which includes a human rights component.

To that end, how the government explains its position on respecting and protecting human rights in North Korea is key.

Mr. Pierre Jacob: Thank you.

Ms. Netley, did you have anything to add to that?

Ms. Rebecca Netley: No, thank you.

Mr. Pierre Jacob: Would the findings of a commission of inquiry established by the UN Secretary General impose a legal obligation on Canada to take action? Would things be different if the commission were established under a resolution of the UN Human Rights Council?

The question is for all three department officials.

[English]

Ms. Rebecca Netley: If I understand your question, it's whether there would be a difference in terms of the legal obligation by a commission of inquiry, whether it be at the Human Rights Council or established by the secretary-general. There would be no difference in terms of a legal obligation that would follow. A commission of inquiry is normally a fact-finding mission and usually makes preliminary determinations and possibly recommendations for follow-up. But in terms of a legal obligation, there would be no difference.

Were there to be a commission of inquiry under the Security Council, that would have a different consequence. A Security Council can make referrals to the International Criminal Court, for example. But between a commission of inquiry under the secretary-general or under the Human Rights Council, as I understand it, there would not be a difference.

[Translation]

Mr. Pierre Jacob: Thank you.

I have one last question.

If Canada decided to call for an international commission of inquiry into human rights violations in North Korea, do you think it would have implications on Canada's relations with the United States, South Korea, Japan or Russia? If so, could you please describe those implications?

[English]

Ms. Rebecca Netley: Thank you for the question.

As I noted, and as Mr. Shantz has noted, we are in constant dialogue with the other key allies for whom North Korean human rights are of great concern.

A first step prior to a country initiating a resolution that would call for a commission of inquiry, or a country trying to include a referral for a commission of inquiry in an existing resolution, would be to consult with those allies who are most engaged on the issue. So certainly were Canada to pursue an initiative such as this, or were any other country to pursue it, a first step would be to engage with those who are most involved with the situation—South Korea, Japan, and the United States, as well as the EU.

• (1400)

[Translation]

Mr. Pierre Jacob: Very well.

Thank you, Mr. Chair. Am I done?

The Chair: You have a minute left.

Mr. Pierre Jacob: Since I have a minute left, I would like to ask another question.

Realistically, could the appointment of an international commission of inquiry into crimes against humanity and gross human rights violations in North Korea lead to the use of force against North Korea? Also, what position would China likely take on the use of force against North Korea? In other words, what implications would China's position have on the possibility of an internationally lawful use of force by the international community against North Korea?

Mr. Graham Shantz: It's very tough to speak for the Chinese government or to say exactly what it would do. For instance, in the case of the six-party talks, I would say that one of the biggest barriers to progress is the position held by a number of the countries in the group. It's hard. But, as my colleague mentioned, there has to be a consensus in order to move forward with a commission of inquiry.

Basically, the position held by a number of countries is extremely critical. Canada's position is clear. We will keep working with our friends and partners to improve the human rights situation in North Korea. It's up to the Chinese government to take a stand on that.

Mr. Pierre Jacob: All right.

Thank you, Mr. Chair.

The Chair: Thank you, Mr. Jacob.

Thank you to our witnesses.

[English]

We really appreciate all three of you joining us. Of course, you had both plenty of advance notice and almost no advance notice, depending on how we look at it. Before the summer, we told you we'd like you to be here and then we got you here on very short notice. We are very grateful that you were able to come and enlighten us, so thank you very much for being here.

For those members of the committee, I just want to mention very briefly an unrelated item of business. We had been asked to encourage the Minister of Foreign Affairs to express the condolences of the Canadian government with regard to the death of the Cuban activist Oswaldo Paya. I've learned that a letter was sent a couple of months ago, not by the Minister of Foreign Affairs but by the Minister of State for Foreign Affairs in the Americas, Diane Ablonczy. I won't be following up with the letter, because I believe that was taken care of by the government.

Thank you very much.

The meeting is adjourned.

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