

Ottawa's case for barring return of Canadian citizen doesn't wash, UN says

Travel ban exemption allows for his entry

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May 7, 2009

Canada is free to bring Abousfian Abdelrazik home and doesn't need to ask for permission, the UN official overseeing the blacklist of alleged al-Qaeda and Taliban suspects said yesterday.

"Whether it is Abdelrazik or anybody else, it is up to the state in question whether they want to allow the person to come back or not," said Richard Barrett, co-ordinator of the UN's Al-Qaeda and Taliban Monitoring Team, which oversees the various United Nations resolutions establishing the blacklist on which Mr. Abdelrazik was placed at the request of Washington in 2006.

He said the travel ban exemption allowing for the return of a citizen is so clear in the UN resolutions that governments need not - and most don't - even apply for permits.

"States needn't notify the committee if somebody is going back to their own country, so we don't necessarily know of all the instances where that has happened," Mr. Barrett said, dismissing the central claim of the Harper government as it fights Mr. Abdelrazik's return.

The Harper government continues to insist that Mr. Abdelrazik's presence on the UN list justifies blocking his return and denying him a passport.

"Mr. Abdelrazik is on the list established by the United Nations Security Council as an individual with ties to al-Qaeda. Therefore, he is subject to a travel ban and an asset freeze," Foreign Minister Lawrence Cannon said in the House of Commons on Monday.

"Our government is taking its obligations seriously and that is why we are not going" to issue him a travel document to return home, the minister said.

Mr. Barrett's assertion that the travel ban doesn't prevent Mr. Abdelrazik's return and - even if it did - other nations on the route home don't need to agree to the exemption, strikes at the heart of the two key claims made by government ministers and Justice Department lawyers in their efforts to block the return of Mr. Abdelrazik, a Canadian citizen.

Mr. Abdelrazik's lawyers argue the government is trampling on his Charter right to return home and deliberately twisting international law to shore up efforts that have left him marooned abroad for more than six years. They claim the government wants to hide the

involvement of Canadian agents in the arrest, imprisonment and mistreatment of a Canadian overseas.

Mr. Abdelrazik, 47, has been living in the Canadian embassy in Khartoum for more than a year. Despite being cleared by both CSIS and the RCMP, he remains on the UN Security Council terrorist blacklist, put there by the Bush administration. Mr. Cannon called him a "national security risk" last month when the minister abruptly reversed previous written government promises to issue him a one-way travel document to come home if he could find an airline willing to fly him. Nearly 200 Canadians had bought him a ticket.

Today in Federal Court, government lawyers are expected to argue that Mr. Abdelrazik can't come home because the travel ban associated with the UN terrorist blacklist means every state he might fly over between Khartoum and Montreal would need to explicitly seek a travel ban exemption for him.

The government relies extensively on that interpretation in its court filing.

"The travel ban specifies that listed individuals may not enter into the territories of a UN member state or transit through the territory of a UN member state," Justice Department lawyers contend in their "memorandum of fact and law." The government adds "it is geographically impossible for [Mr. Abdelrazik] to travel from Sudan to Canada by air, land or sea without transiting through the sovereign territories (land, airspace or territorial waters) of numerous UN member states which are bound at international law to prevent such transit."

Mr. Barrett rejects that interpretation.

"The overflight states don't come into it and they haven't ever come into it," he said.

The UN 1267 committee, so named for the first UN resolution, co-sponsored by Canada, which created the blacklist, has issued numerous travel ban exemptions for various reasons, including travel for medical treatment or to attend legal hearings.

None of them has ever involved permission from overflight states, nor have overflight states been involved when countries bring citizens home under the explicit travel ban exemption without seeking a UN travel permit.

Heavily censored government documents implicate Canadian security agents in Mr. Abdelrazik's arrest in Sudan in 2003. CSIS agents interrogated him in Sudanese prisons while the rest of the government and even his family were kept in the dark about his whereabouts.

Mr. Abdelrazik claims he was beaten and tortured during his 19 months - in two stints - in Sudan's notorious prisons. Government lawyer Anne Turley, in cross-examination in preparation for today's court hearing, tried to get Mr. Abdelrazik to admit to self-mutilation to account for the scars on his torso. Other documents show Ottawa rejected Sudanese offers to fly Mr. Abdelrazik home and that Khartoum told Canadian diplomats it could no longer hold an innocent man at the behest of foreign governments. Meanwhile, Canadian officials dismissed Mr. Abdelrazik's treatment as no worse than usual for a Sudanese jail.

Senior Canadian officials ordered Canadian diplomats to stay away when Mr. Abdelrazik pleaded for them to attend while he was interrogated by visiting U.S. agents.

The Bush administration added Mr. Abdelrazik to the UN list and its own no-fly list in 2006. Mr. Abdelrazik, who came to Canada in 1990 and was granted political refugee status, became a citizen in 1995. He has never been charged with a crime in Canada, the United States or Sudan.