

**BEFORE THE COMMISSIONER OF INQUIRY  
INTO THE INVESTIGATION OF THE BOMBING OF AIR INDIA FLIGHT 182**

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**APPLICATION FROM THE WORLD SIKH ORGANIZATION OF CANADA TO CALL  
DAVID KILGOUR AS A WITNESS**

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**PART I - OVERVIEW**

1. The World Sikh Organization of Canada (“WSO”) is applying to call David Kilgour (“Kilgour”) as a witness at the Commission of Inquiry into the investigation of the Bombing of Air India Flight 182 (“Inquiry”).
2. Kilgour authored a book titled *Betrayal: The Spy Canada Abandoned*. In this book, Kilgour details how the Canadian Government and CSIS targeted the Sikh community so as to discredit and damage its reputation.

## **PART II - FACTS**

3. Kilgour began his career as a Canadian Crown Attorney. From 1972 to 1979, Kilgour served as a senior agent of the Attorney General and also as a constitutional advisor to the Government of Alberta. He held this position until he was elected to the House of Commons in the spring of 1979.
4. Kilgour was first elected as a Member of Parliament in 1979 in the riding of Edmonton Strathcona. Since then, he has been re-elected seven times.
5. Kilgour strongly advocates strengthening Canadian human rights commitments and engaging in multilateral peacekeeping efforts. He has been instrumental in bringing international civil conflicts in countries such as Burma, Vietnam and Zimbabwe to the attention of the Canadian public, and to the forefront of Canada's foreign policies.
6. Kilgour's book, *Betrayal: The Spy Canada Abandoned*, tells the story of a Russian trained spy, Ryszard Paszkowski, who was recruited by CSIS in 1984 to be a spy for Canada. In 1986, Paszkowski was flown to Rome to participate in a secret meeting, which occurred after the bombing of Air India Flight 182.
7. Kilgour explains the way in which Paszkowski, at this meeting, was asked to be involved with a plan to blow up an Air India plane in Europe. Kilgour also reveals Paszkowski's suspicion of the plan being primarily directed at subduing the Canadian Sikh community, since, according to Paszkowski, the Canadian Government had been having trouble with it.

8. In his book, Kilgour suggests that CSIS had been searching for someone it could blame for the Air India bombing and that the plane bombing Paszkowski was asked to be a part might have been part of a plan on the part of the Canadian Government to cast suspicion on the Sikh community.
9. Kilgour's book further suggests that the Canadian Government may have become involved in this plan as a means of discrediting and damaging the reputation of the Sikh community.

Ref.: Application for David Kilgour to be called as a witness,  
submitted by WSO of Canada, Oct. 5, 2007.

10. Kilgour states that the details in his book are true and accurate transcriptions based on his correspondence with Paszkowski. The following are the relevant excerpts from Kilgour's book:

As Paszkowski was returning to his hotel, his mind was full of what he had just heard. He was to blow up a plane and cause people to die. He started to pull all the threads together. He remembered Maduck stressing the government of Canada's troubles with its Sikh community and that it would be useful to discredit Canadian Sikhs generally. The Air India catastrophe off Ireland, which had killed more than three hundreds passengers, mostly Canadians, had occurred the previous year. Would a similar event benefit the government of India while subduing the Canadian Sikh community as the prime suspects in the Air India crash? It seemed very clear that high-ranking people in these countries and probably others were involved.

The governments of Canada, India and Italy, or perhaps rogue branches of each, acting in concert, had decided on this preposterous mission and had recruited agents like himself to help carry it out. There was no concern for human life, only political objectives mattered. There were two Sikhs in the group, but who knew their real identity or from which side they came? They were many other unknown factors about the mission, but Paszkowski was certain he wanted none of it.

...

CSIS badly wanted someone arrested following an attack on an Air India flight after its ineffective efforts to identify those involved in the June 23, 1985, disaster in which three hundred and twenty-nine passengers died off the coast of Ireland. In all likelihood, if CSIS was a party to this enterprise, it intended to abort the mission by arresting all involved before anyone could be hurt. Third, a controversial book by journalists Zuhair Kashmeri and Brian McAndrew, argued that rogue members of the Third Agency, an intelligence group allegedly created in the early 1980s to build support for Indira Gandhi's government by stirring up Sikh militants in Punjab, committed the 1985 catastrophe to discredit Sikhs world wide and those living in Canada in particular. If true, and the government of India vehemently denied any involvement, was there some involvement by the Third Agency in the Rome plot? If Paszkowski's account of what he encountered in Rome all invented, why were so many Canadian government representatives so anxious that he divulge no details of why he was in Rome?

Ref.: Kilgour, David, *Betrayal: The Spy Canada Abandon* (Scarborough, Ontario: Prentice Hall Canada Inc., 1994), chapter 9.

### **PART III – ISSUES**

11. Should the Commission allow Kilgour to testify on record at the Inquiry?

### **PART IV – LAW AND ARGUMENT**

#### **The Commission should allow Kilgour to testify at the Inquiry**

12. The Sikh community has a direct and substantial interest in the subject matter of the Inquiry, as the Inquiry deals with issues related to the alleged threat of “Sikh” terrorism. Further, many of the victims of the tragedy were of the Sikh faith.

Ref.: Application for Standing submitted by WSO of Canada, 6 July 2006

13. Rule C8 of the *Rules of Procedure and Practice* states that the Commissioner is committed to a process of public hearings to the greatest extent possible. As

such, and pursuant to Rules C6, D14, D16 and H26 of the *Rules of Procedure and Practice*, the Commissioner may exercise his discretion to:

- a) determine if there are special conditions under which a person may participate and those parts of the Inquiry in which a person granted standing may participate;
- b) determine on what terms, and in which parts of the Inquiry a party or intervenor may participate, and the nature and extent of such participation; and
- c) receive any evidence or information which he considers to be helpful in fulfilling his mandate regardless of whether such evidence or information would be admissible in court.

Ref.: Commission of Inquiry into the Investigation of the Bombing of Air India Flight 182, *Rules of Procedure and Practice*, 2006, online: <<http://www.majorcomm.ca/en/rulesofprocedureandpractice/>>.

14. Rule 49 prescribes the following:

When Commission Counsel indicate that they have called the witnesses whom they intend to call in relation to a particular issue, a party may then apply to the Commissioner for leave to call a witness whom the party believes has the evidence relevant to that issue. If the Commissioner is satisfied that the evidence of the witness is needed, Commission Counsel shall call the witness, subject to Rule 47.

Ref.: Commission of Inquiry into the Investigation of the Bombing of Air India Flight 182, *Rules of Procedure and Practice*, 2006, online: <<http://www.majorcomm.ca/en/rulesofprocedureandpractice/>>

15. Commission Counsel has already questioned certain witnesses with regard to the possibility that certain governments and government agencies may have been involved in the bombing of Air India and may have been involved in a plan to implicate the Sikh community for the tragedy. For example, Commission

Counsel questioned a witness, Mr. Hooper, regarding the possible involvement of the Government of India in the Air India tragedy, Mr. Hooper's testimony regarding the issue was rather superficial. Commission Counsel did not question Mr. Hooper with regard to the details of the investigation into the involvement of the Indian Government, nor did Mr. Hooper voluntarily offer any details relating to this issue. The result is that the Government of India's involvement was not adequately canvassed at the Inquiry, and Mr. Hooper's assertion was not adequately tested through proper and effective cross-examination.

16. The question of whether there were deliberate attempts by other governments or government agencies, such as CSIS and the RCMP, to negatively affect the reputation of the Sikh community following the bombing of Air India, is squarely within the mandate of this Commission. This issue has not yet been adequately explored.
17. The Kilgour evidence, if accepted, is of critical significance to this Inquiry as it goes to the heart of the question of what went wrong in the Air India investigation.
18. The WSO respectfully submits that if a witness has evidence to suggest that there may have been complicity or involvement on the part of the Canadian intelligence agencies, in maligning the reputation of the Sikh community, either to protect their own interests, or those of foreign governments, these allegations must be explored. Investigating these allegations may help shed further light on

what went wrong in the Air India investigation, why there was such a long delay in the laying of charges, and why policing authorities have been unable to garner convictions for the Air India bombing.

19. The Commission's *Terms of Reference* specifically direct the Commission to assess whether there were deficiencies in the assessment by the Canadian government officials of the potential threat posed by Sikh terrorism:

Her Excellency the Governor General in Council, on the recommendation of the Prime Minister, hereby directs that a Commission do issue under Part I of the *Inquiries Act* and under the Great Seal of Canada appointing the Honourable John C. Major, Q.C., as Commissioner to conduct an inquiry into the investigation of the bombing of Air India Flight 182 (the "Inquiry"), which Commission shall direct

b) the Commissioner to conduct the Inquiry specifically for the purpose of making findings and recommendations with respect to the following, namely,

- a) if there were deficiencies in the assessment by Canadian government officials of the potential threat posed by Sikh terrorism before or after 1985, or in their response to that threat, whether any changes in practice or legislation are required to prevent the recurrence of similar deficiencies in the assessment of terrorist threats in the future.

**Ref.:** Commission of Inquiry into the Investigation of the Bombing of Air India Flight 182, *Terms of Reference*, 2006, online: <http://www.majorcomm.ca/en/termsofreference/>.

20. As a witness, Kilgour can provide insight and examples of how a planned bombing may have been purposely designed to taint the reputation of the Sikh community and to cast suspicion on it as being responsible for the tragedy.
21. Kilgour's testimony is necessary to demonstrate that the Canadian government may have been passively or actively involved in maligning the reputation of the Canadian Sikh community, for political reasons. This goes to the question of

whether the “threat of Sikh terrorism” was being adequately addressed by the RCMP and/or CSIS.

22. It is respectfully submitted that Kilgour’s evidence is required in order to ensure that this Commission is afforded with the most accurate and complete evidence upon which to base any conclusions.

## **PART V – CONCLUSION**

21. Kilgour is a respected author who, through his book, brought to light concerns regarding malicious attempts to malign the reputation of the Canadian Sikh community. His research elucidates how Canadian police forces may have been either complicit in, or active participants in, a plan to unfairly target the Sikh community as a collective. The evidence is both relevant and necessary for a full, fair and open Inquiry process to occur into the bombing of Air India Flight 182.

## **PART VI – ORDERS SOUGHT**

23. The following orders are sought:
  - a) An Order that Commission Counsel call Kilgour to testify on record at the Inquiry; or



- b) An Order allowing the Applicant to call Kilgour to testify on record at the Inquiry; or
- c) Such further and other relief as this Honourable Commissioner may permit.

All of which is respectfully submitted.

Dated at Ottawa 12<sup>th</sup> day of October, 2007

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PALBINDER K. SHERGILL

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TO: **COMMISSION OF INQUIRY INTO THE INVESTIGATION INTO THE INVESTIGATION OF AIR INDIA FLIGHT 182**  
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