

The following submissions on Phase One are made by the Family Interests Party, and in particular, its members Mrs. Lata Pada, Mr. Satrajpal (Fred) Rai, Ms. Lorna Kelly, and Mr. Kalwant Mamak.

OPENING

1. On June 23rd, 1985 a terrorist bomb exploded on Air-India Flight 182. All 329 people on board the Boeing 747 were killed when the plane went down over the Atlantic Ocean, just south of Ireland, off shore of County Cork. Of the 329 victims on Flight 182, 136 were children and 280 were Canadian citizens, making the bombing the largest mass murder in Canadian history.

2. The bombing of Flight 182 was a tragedy for this country, but it was also a very personal tragedy for the family members of all of the victims of Flight 182. Though the bombing happened over twenty years ago, that tragedy has not, and never will be, forgotten. Day in and day out, the families live with the knowledge that their loved ones died in a senseless act of violence. More importantly, however, is their awareness that this tragedy was one which could have, and should have, been avoided. This Inquiry has been convened to show how this disaster could have been prevented and to attempt to ensure it will never happen again.

THE IMPORTANCE OF THE INQUIRY INTO THE INVESTIGATION OF THE BOMBING OF AIR INDIA FLIGHT 182

3. The families regard the Inquiry into the Investigation of the Bombing of Air India Flight 182 (the "Inquiry") as critical to discovering how such a tragedy could happen to their loved ones and the many other innocent victims of the bombing of Air India Flight 182. For over twenty years the families of those lost in the bombing have struggled, not only with their grief, but also with the frustration of being denied a proper and thorough investigation into the events preceding and following the bombing.

4. As a result of this frustration, some family members now participate only reluctantly. Though they describe the Inquiry's Terms of Reference as admirable, based on their past experiences with the Canadian government in relation to the bombing, they have doubts about the Inquiry's efficacy. They hope that the Inquiry will resolve these doubts and provide some closure to the nightmare that their lives have been since the bombing.

5. The Inquiry, as stated by Mrs. Pada, "is about accountability, a public acknowledgement of the past wrongs that have plagued the Air India bombing." Yet, as Mr. Rai added, it is also about identifying the sources of extremism and finding a way to counteract it in the future. For them all, however, this Inquiry is about finding out what went wrong, and making sure that it does not happen again.

(i) Lata Pada statement, September 25, 2006, page X, line X

(ii) Satrajpal Rai statement, September 25, 2006, page 110, line 16.

6. As Mrs. Pada said, "the Air India Inquiry is as much about the future as it is about the past." The families hope that this Inquiry will prevent such a tragedy from ever occurring again. They want this Inquiry to serve as a reminder to all Canadians that the potential for terrorism in Canada is very real. The Sikh terrorism responsible for the bombing of Flight 182 has today been replaced by even more dangerous terrorist ideologies, the threat of which needs to be immediately recognized and addressed.

(i) Lata Pada statement, September 25, 2006, page 78, line 21

7. This Inquiry is also Canada's opportunity to restore the faith of the family members and others in their country's ability to protect the rights of its citizens. It is an occasion for Canada to demonstrate to the rest of the world that it is a country that cares for its citizens and that those responsible for this disaster will be held responsible. According to Mrs. Pada, "we must create a Canada that provides a safe home for all of its people."

(i) Lata Pada statement, September 25, 2006, page X, line X

THE VICTIMS AND THEIR FAMILIES

Kalwant Mamak

8. Mr. Mamak lost his wife, Rajinder Mamak, in the bombing of Flight 182. Mrs. Mamak was on her way to visit her ailing father in India when she tragically lost her life. The couple originally met in Delhi, and were married when Mr. Mamak was a young man. During their marriage they had three children and started a successful business which they ran together, as a team in south-western Ontario.

9. Mrs. Mamak was a devoted mother and wife who worked hard caring for her family and helping to manage the family business. Upon her death Mr. Mamak was lost, not only in his grief, but also in his efforts to raise three devastated children all on his own. He struggled with late nights of laundry, homework, packing lunches and other family responsibilities. McDonalds became a staple in their dinner routine because Mr. Mamak could not cook. As a result of the strain of carrying these responsibilities on his own Mr. Mamak suffered a major heart attack two short years after the death of his wife.

10. Over the last twenty-one years since the death of his wife, Mr. Mamak's children have grown into successful professionals and Mr. Mamak has learned to cook, using his skills in the kitchen to cook for charities. He and his children suffered tremendously because of the senseless death of their beloved wife and mother. Though all of them needed counselling, none was ever offered. They were forced to work through their grief alone, all the while missing their loved one in a country that never responded to their needs.

Satrajpal (Fred) Rai

11. Mr. Rai moved to Canada as a child in 1975. Kiranjit Kaur Rai, whose life was taken in the bombing of Flight 182, was both his cousin and his adopted sister. As a child Mr. Rai spent two years in India living with his aunt and uncle, Ms. Rai's parents. While living in India with Ms. Rai's family, she and Mr. Rai became as close as siblings. She cared for him, teaching him Hindi and educating him about Indian culture.

12. Eventually Mr. Rai returned to Canada, and Ms. Rai followed to live with Mr. Rai's family. In the two years that she lived in Canada, Ms. Rai became an integral part of her community. She learned English and went on to win numerous academic awards for her achievements. In celebration of these academic successes, Mr. Rai's parents offered to send Ms. Rai back to India to visit her family as a graduation present. It was for this reason that Ms. Rai was a passenger on Flight 182.

13. Upon learning of the loss of his dear cousin and sister, Mr. Rai went immediately into shock. His parents were devastated, and his mother, in particular, felt responsible for the death of Ms. Rai and suffered a nervous breakdown in response. Mr. Rai has struggled with his

grief these last twenty-one years, feeling isolated and victimized by the failure of his country to provide any assistance to him or his family. He describes himself as "between two worlds," a Sikh by birth and a Canadian by choice who was not supported by either community. According to his statement, "for 21 years ... I did not feel human."

(i) Satrajpal Rai Statement, September 25, 2006, Page 108, Line 13.

Lata Pada

14. Mrs. Pada met her husband, Vishnu Pada, in India in February 1964. Mrs. Pada completed her second year of university at Elphinstone College in Bombay, India, and Mr. Pada had just graduated with a Masters degree in geophysics from the University of Toronto. when they married in Val Morin, Québec. They made a home in northern Manitoba where Mr. Pada worked as a staff geologist. Mrs. Pada describes her husband as "quintessentially Canadian," with a passionate love for the outdoors and for this country. He was also an active Rotarian and member of the India Canada Association and the Hindu Prathnasamaj. Mrs. Pada describes her husband "as a man with a vision for a better world, always believing in his capacity to make a difference." Had his life not been cruelly stolen that fateful day, there is no doubt that he would have made a difference in many lives. Had he survived, today he would be celebrating his retirement from a rewarding career as a geologist, been enjoying his grandchildren and fulfilling his dreams of travel and adventure with his beloved wife.

(i) Lata Pada statement, September 25, 2006, page 55, line 18, page 56, line 20.

15. Their first daughter, Brinda, was born in Manitoba in 1967. Brinda had a special gift for languages and was an adventurous young woman with a particular sense of compassion and awareness of global environmental and international development issues. Brinda excelled at school and in her community, spending most of her free time volunteering. Wherever Brinda went she made friends. She graduated from high school the night before she, her father and younger sister left on Air India Flight 182. In her high school yearbook Brinda had written, "only live for today because tomorrow isn't promised to you."

(i) Lata Pada statement, September 25, 2006, page 60, line 6.

16. Arti, Mr. and Mrs. Pada's second daughter, was born in 1970 and was fifteen years old when she died. She displayed a tremendous love for nature and animals from a very young age and was a champion of the underdog wherever she went. Arti often accompanied her older sister to the chronic care ward of the local hospital, using her skills as a guitar player and singer to entertain the seniors. Described as a class clown, Arti planned to become a doctor when she grew up. Sadly, she never had the chance. Her life was taken when she was only fifteen years old.

17. Mrs. Pada was in Bombay when she heard the news that her entire family had been killed in the bombing of Flight 182. Her husband and daughters were on their way to meet her when they were murdered. Arti's and Brinda's bodies were found within feet of each other but Mr. Pada's body was never found. Mrs. Pada has since been forced to live with a lifetime of "what ifs", knowing that she would never see her family again.

Lorna Kelly

18. Mrs. Barsa Kelly, mother of Lorna and Nicola Kelly, moved to Toronto to complete her PhD studies in Geography at the University of Toronto when she was a young woman. In 1961 she met and married a fellow student, Kenneth Kelly. Within a few years they had two baby girls and eventually settled in Guelph where both Mr. and Mrs. Kelly taught at the University of Guelph.

19. When Mrs. Kelly's life was prematurely taken in the Air India bombing, Mr. Kelly became a widower at the young age of 48. Mrs. Kelly's parents have never recovered from their grief and Mrs. Kelly's mother-in-law died just a few short months later, greatly affected by the loss of her beloved daughter-in-law. Ms. Lorna Kelly was diagnosed with breast cancer for the first time in 1990, only five years after her mother's murder. Her oncologist suspected that Ms. Kelly's incredible grief was a contributing factor in the development of the disease. In the twenty-one years since her mother's death, Ms. Lorna Kelly has been plagued by grief and frustration at this senseless act of violence and the failure of her country to address it.

20. Mrs. Kelly was a dedicated volunteer and an active member of her community locally and in India as well. She was an active mentor, teaching university courses, assertiveness training for women and even a Chinese cuisine course at a local community center. At the time

of her death, Mrs. Kelly was completing field work on her PhD. Her thesis focused on rural women and development in West Bengal, India. Her work affected many lives but, as Ms. Lorna Kelly stated, "unfairly, the manner of her death has eclipsed the manner of her extraordinary life."

- (i) Lorna Kelly statement, September 27, 2006, page 431, line 20.

THE LACK OF CANADIAN SUPPORT POST-BOMBING

21. When Flight 182 was lost, the family members of the passengers were not contacted by anyone. Instead they were forced to get their information from the media and each other. They were frightened and confused, their panic exaggerated by the lack of information provided. Many tried to contact Air India and the Canadian government, but to no avail. Without support they made their own way to County Cork in Ireland, some describing this journey as nightmarish. According to Ms. Lorna Kelly's statement, "the anxiety of not knowing what to expect combined with our terrible grief was intolerable."

- (i) Lorna Kelly Written Statement, September 27, 2006, page X, line X

22. Upon arriving in Cork, Ireland, the families found no support from the Canadian government. According to Ms. Kelly, "in contrast to the huge humanitarian effort on the part of the Irish, the Canadian government was nowhere to be seen." Mr. Mamak said in his statement that "I was totally lost and there was nobody there to guide me. ... I couldn't go to the Canadian people because I couldn't find them." There was a single Canadian official who came to Mr. Mamak's motel in Cork, asked if he was a Canadian citizen, and inquired "'if I needed any kind of help,'...I said 'You tell me what kind of a help you can give me? I don't know, I am a lost person'....He said 'We are just asking'". His only other contact came from an RCMP officer, who came to his home in Sarnia a few months later only to ask how much insurance he had on his wife's life.

- (i) Lorna Kelly Statement, September 27, 2006 page 433, line 22.
- (ii) Kalwant Mamak Statement, September 26, 2006, page X, line X

23. The reason that Mr. Mamak could not find a Canadian official was because there were, at most, seven consular staff in Cork to deal with over three hundred family members. No consideration was ever given to sending a senior Canadian official such as the Minister of External Affairs to Cork in the days after the bombing. Also, none of the seven consular staff spoke Hindi, Punjabi or Urdu and the government made no effort to provide any Hindu, Sikh, Muslim or other religious representative to assist the victims' families. The consular witness' explanation for the absence of psychological or social work counselling was that the field was allegedly "not highly developed" at that time.

- (i) Mr. Daniel Molgat, Cross Examination (Anand) November 7, 2006, page 1161, line 12, page 1169, line 20
- (ii) Mr. Gavin Stewart, Cross Examination (Anand) November 7, 2006, page 1162, line 13, page 1163, line 23, page 1165, line 22

24. As described by Gavin Stewart, the consular staff was definitely "stretched" and, according to Mr. Daniel Molgat, "we simply didn't have enough people". Further, it wasn't always immediately apparent to people that the seven officials were even Canadian or what their role in the aftermath of the bombing was. According to Mr. Stewart, "it wasn't clear when they were talking to us, especially outside of Jury's Hotel, that we were the representatives of the Government of Canada."

- (i) Mr. Molgat, Cross Examination (Anand) November 7, 2006, page 1163, line 21, page 1171, line 19
- (ii) Mr. Gavin Stewart, Cross Examination (Anand) November 7, 2006, page 1163, line 21, page 1191, line 1
- (iii) Mr. Gavin Stewart, Cross Examination (Boxall) November 7, 2006, page 1195, line 24

25. Even in the months and years following the bombing, no support has been provided by the Canadian government to the families of the victims of Air India Flight 182. When Mr. Rai made his statement to the inquiry, he had lived in the same house for 26 years, yet

no government official had called or written to him since the bombing. This experience is, unfortunately, typical of the family members of victims of Flight 182.

(i) Satrajpal Rai Statement, September 25, 2006, page X, line X

26. Many of the family members also felt abused by the Canadian media. Their losses were sensationalized, their trauma dramatized repeatedly every time a news bite was required. According to Mr. Rai, "I had every radio station, newspaper, television news station knocking, calling relentlessly, hour after hour, people knocking on the door, asking for interviews."

(i) Satrajpal Rai Statement, September 25, 2006, page X, line X

THE IRISH PEOPLE

27. The families of the victims of Flight 182 extend their most sincere thanks to the Irish, who assisted in the post-bombing recovery efforts. Without their attention and compassion, many more of the victims' bodies would never have been found. According to Ms. Kelly, "the compassion and sympathy and support that we received from the moment that we arrived in Cork made our ordeal liveable."

(i) Lorna Kelly Written Statement, September 27, 2007, page 432, line 8

28. The families were welcomed in their time of need and desperate grief by the Irish citizens of Cork. Indeed many Irish opened up their homes as well as their hearts in sympathy. Mr. Mamak called them "the most wonderful people in this world". According to Mrs. Pada, "they took this tragedy upon themselves as if they had suffered and they had – they demonstrated such an incredible sense of kinship, such an incredible sense of humanity and compassion."

(i) Lata Pada Statement, September 25, 2006, page 65, line 1729.

ACCOUNTABILITY

30. The lack of support and lack of importance that was given to this devastating act of terrorism have led some family members to conclude that their country has betrayed them. In her written statement Ms. Lorna Kelly states that "the glaring incompetence of the Canadian

government and law enforcement, the subsequent ineffectual investigation and trial, the persona non grata status that the families of the victims have had to endure, have all served to punch a hole through our existence."

(i) Lorna Kelly Written Statement, September 27, 2007, page 435, line 19

31. The loss of faith in the Canadian government has only been reinforced by the amount of time it has taken to convene this Inquiry. Mrs. Pada noted "the overwhelming sense of betrayal that it took 15 years before the Government of Canada decided to proceed with the trial and imagine again the loss of faith in a system where the incompetence of the RCMP and CSIS was singularly responsible for not averting a tragedy of such magnitude and devastating consequences. ... Twenty-one years is a lifetime, an eternity for the families who waited with trust and faith in the justice system."

(i) Lata Pada Statement, September 25, 2006, page 72, line 10, page 74, line 4.

THE IMPACT OF SYSTEMIC RACISM

32. All of our clients described their history in Canada in terms that recall the quintessential immigrant experience: hard work, priority on education and their community values and roots, as well as participation and achievement within the Canadian milieu.

33. Barsa Kelly, for example, "was an immigrant woman of colour in a small Ontario university town....She was an educator as a professional and in her own life, she was an activist and a feminist." Vishnu Pada came to Canada to enter graduate studies in geology and worked in remote locations in northern Manitoba, Quebec, the Yukon, and Indonesia and ultimately in Sudbury. Lata Pada's family was the only Indo-Canadian family in most of these locations, and they enjoyed involvement in civic and multicultural committees as well as volunteer work in the community.

34. All of the victims whose relatives we represent were South Asians, members of a racialized minority group, immigrants from a distant land. Like other personal traits, this simple fact shaped who they were, and how they sought to make their lives within their community and

the wider society. It ultimately appears to have affected how their tragic situation was treated by their fellow Canadians, and particularly by the Canadian government and its agencies.

35. Their collective experience, post-bombing and in the years since September 11, 2001, has led many people, including the family members of the victims of Flight 182, to the conclusion that because of the racial and cultural backgrounds of the victims, the Canadian government and its agencies denied them what they were entitled to as citizens of this country: appropriate support in the form of recognition of their losses and assistance in coping with them; a prompt and public inquiry into the events; proper investigation and prosecution of the terrorist murders; and prompt reform of the aviation security shortcomings that allowed the bombing to occur.

36. Mrs. Pada referred to the Canadian Prime Minister presenting condolences to the then Prime Minister of India for the loss of its citizens. Mr. Rai said he could come "to no other conclusion that had I been fair skinned, I know I would've been treated differently." He felt that as a Sikh, he had "been dropped by both worlds. My Canadian passport doesn't mean the paper that it's written upon."

(i) Satrajpal Rai Statement, September 25, 2006, page X, line X

37. Mrs. Pada stated that "our pain was aggravated by the sheer apathy that we encountered in our attempts to meet with the government in the years following the tragedy...The Air India tragedy is Canada's 9/11. It happened 16 years before 9/11, yet no one woke up to that fact. Imagine how it hurts when people speak of 9/11 as the world's most significant act of aviation terrorism, deleting the Air India bombing from our collective memories." On a proportionate scale, the Air India bombing in Canada inflicted more harm than 9/11, yet "the Air India bombing had been relegated to a distant past unrelated seemingly to Canada because the majority of the victims were of South Asian ancestry. The aircraft belonged to the Indian government and the cause for the tragedy was located in some obscure sectarian issues in India."

(i) Lata Pada Statement, September 25, 2006, line X, page X

38. Lorna Kelly stated of the Irish: "The compassion and sympathy and support that we received from the moment that we arrived in Cork made our ordeal liveable. The Irish people

made us feel that it was their tragedy as well as ours." Why did the Irish feel that it was their tragedy when Canada would not? According to Senator Colin Kenny, when asked why Canadian aviation security practices changed so much more quickly after the terrorist attacks of September 11, 2001 than they did in the previous fifteen years after the terrorist bombing of Air India Flight 182, "I feel ashamed to say it, but I feel that there was a sense that it wasn't Canadians who were involved."

- (i) Honourable Senator Colin Kenny, Cross-Examination (Anand), June 1, 2007, page 4700, line 1.

RECOMMENDATIONS

39. This Inquiry cannot appease the families of the victims, nor can it put an end to their life-long grief. What it can do however, is recommend fundamental changes to our laws, policies and procedures so that no Canadian will ever have to experience what the victims of the bombing and their families have been forced to experience. "We must create a Canada that provides a safe home for all of its people."

- (i) Lata Pada Statement, September 25, 2006, page 78, line 7

40. Some of the specific ways that this can be achieved include:

Government Emergency Policies and Procedures

41. There were no emergency policies and procedures in place dealing with terrorist attacks in general, or with airline attacks in particular, when Flight 182 was attacked. As a result, there were only seven consular staff in Cork to attend to over three hundred family members, none of whom spoke Hindi, Punjabi or Urdu. No senior Canadian official was present, and no religious or other counselling services were offered. Canadians felt lost and abandoned because Canada did not provide them with support in their grave times of need.

42. When asked about the lack of a written policy addressing the response to emergencies of the kind that confronted the families after the Air India bombing, Mr. Desjardins confirmed that, to this day, there is no such policy. Canada has no operating procedure for addressing airline disasters specifically or terrorist acts generally and this is something which the

Inquiry needs to address. Were such a tragedy to occur ever again, Canada owes a duty to its citizens to be able to respond immediately and effectively.

- (i) Desjardins Cross Examination (Anand) November 8, 2006, page 1310, line 22
- (ii) Molgat/ Stewart/ Heatherington Cross Examination (Boxall), November 7, 2006, page 1174, line 9

Government Security Policies and Procedures

43. Over the course of this Inquiry, it is becoming clear that the bombing of Flight 182 was an avoidable tragedy. More effective policies and procedures therefore need to be put in place to deal with the growing threat of terrorism. According to Mrs. Pada, Canada does not seem to be a nation that cares or is willing to concern itself "with the growing threat of terrorism in its own backyard ... The Air India bombing was a dastardly act of revenge conceived on Canadian soil by Canadians against Canadians. Let us not ever forget that."

- (i) Lata Pada Statement, September 25, 2006, line 72, page 19, page 74, line 24.

44. Thus, the dysfunctional relationship between CSIS and the RCMP at the time needs to be examined so that it can be repaired. The Inquiry must take a closer look at the effectiveness of how security intelligence is gathered and used so that it is done in the safest and most efficient way possible. Security breaches like the one that allowed the bomb to reach Flight 182 can never happen again.

45. Aviation security policies also need to be further developed so that terrorists can never use a plane to do such harm again. Lasting, effective procedures need to be implemented in areas such as baggage reconciliation, cargo screening and perimeter security. The deterrence of terrorist financing via Canadian charities is also an area which this Inquiry must speak to. The bombing of Flight 182 was planned entirely on Canadian soil and the majority of its victims were Canadian citizens. It is clear therefore that Canada has a significant responsibility to prevent terrorism in this country and to protect its citizens. As provided by Ms. Lorna Kelly in her

statement, "the legacy of all the other victims of the Air India bombing must be that this failure of all systems will not be allowed to happen again in Canada."

- (i) Lorna Kelly Written Statement, September 27, 2006, line 7

Counselling and other assistance

46. Grief counselling, as well as psychological, medical and religious assistance, delivered in a culturally sensitive manner, would have been a very valuable service to the family members of the victims of Flight 182 and it must be in place for family members if anything so terrible ever happens again. Mr. Mamak emphasized in his statement that people should be given some kind of counselling support in such tragic situations: "when you're going through a tragedy, you don't know what you're going through. You're lost, totally lost. We didn't know that we needed counselling. We didn't know what to do. We were just running around. "

- (i) Kalwant Mamak Statement, September 26, 2006, page 152, line 7

Public acknowledgment of loss

47. Many of the victims' families feel that the Canadian government has not apologized, and indeed acknowledged, the incredible tragedy of Flight 182 and the loss of so many innocent Canadian lives. According to Ms. Lorna Kelly's written statement, Canada, her mother's country of choice, failed her "by not owning up to its responsibility, by not recognizing and honouring all of those valuable, wonderful people, by not acknowledging the truth." Mrs. Lata Pada said, "imagine that an entire nation cannot begin to visualize the horror of this tragedy, their collective memory of this event dulled by years of public amnesia and cross sensationalization of more exciting news."

- (i) Lorna Kelly Written Statement, September 27, 2006, page X, line X

- (ii) Lata Pada Statement, September 25, 2007, page 72, line 16

48. To the contrary, federal agencies and Air India have tried hard to deflect responsibility to others. It is only because of the patience and perseverance of the victims' families in the face of Canadian apathy that this Inquiry was ever even convened. The family members recommend that there be a formal, public recognition of the mass loss of Canadian

citizens at the end of this Inquiry. It is a long overdue and necessary obligation of the Canadian government and public.

Investigation of Systemic Racism

49. The Canadian response, or lack of response, to the events preceding and following the Air India bombing has been attributed, at least in part, to stereotypical attitudes toward the victims, the perpetrators and their relationship to Canada.

50. It is one of the Inquiry's Terms of Reference that the Commissioner make findings about "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," and to recommend "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."

51. Through expert evidence or otherwise, the inquiry must address the issue of systemic racism as an operative factor or deficiency, under its Terms of Reference.

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