

## OPENING STATEMENT SUBMITTED BY MAHER ARAR AND HIS COUNSEL TO THE COMMISSION OF INQUIRY

Maher Arar's beginning in Canada mirrors that of every immigrant. Arriving in Montreal as a teenager, he is filled with hope of making a new life as a citizen in his chosen country. He works hard to get through school and graduates with a Master's Degree in telecommunications engineering. He marries Monia, herself an immigrant, who later earned a Ph.D. in financial management, and together they have two children. He has dreams of starting his own company and works hard to make it succeed. He moves to Ottawa, seeking better employment opportunities, and spends a period of time in Boston before returning to Ottawa to continue working as a consultant.

Mr. Arar's life was shockingly disrupted when on September 26, 2002, while transiting through the United States, he was detained by U.S. authorities and was held and questioned for twelve days. Although Mr. Arar is a Canadian citizen, U.S. authorities decided to send him to Syria. The U.S. has a policy of rendering terrorism suspects to despotic regimes where they can be interrogated under torture in order to extract information.

During the next year, Mr. Arar was tortured in Syria. He was held for over 10 months in a 3'x 6'x7' grave. Due to the unfailing courage of his wife, Monia, and the outcry of the Canadian public, Mr. Arar was finally returned to Canada in October 2003, after more than a year in captivity.

But Mr. Arar's story is more than a tragic account of detention and torture at the hands of one of the tyrannical governments that plague our planet. The most disturbing part of his story is that there are clear and undisputed connections to Canada. The public outrage that followed Mr. Arar's public statement on November 4, 2003 was in large part the shock of Canadians over the role that Canadian officials played in Maher's detention in the U.S. and his rendition to Syria. There can be no doubt that this inquiry was called, over the strenuous objections of the National Security Establishment, because of the

overwhelming desire of the public and the media for answers to the questions surrounding the involvement of Canadian officials in Mr. Arar's rendition to Syria and his subsequent treatment upon his return to Canada.

The mandate of this public inquiry is to inquire into the role of Canadian officials in these events. There are many questions that need to be answered in this inquiry. Despite initial denials, the Canadian government has now admitted that the RCMP and possibly other agencies provided information to U.S. authorities—information that the U.S. relied on when it decided to apprehend Maher, and when it ultimately decided to deport him to torture in Syria. Several issues arise here. *What information was provided? Who decided to send the information to the U.S.? What safeguards, if any, were in place when the information was forwarded to ensure its proper use?*

Most of the alleged case against Mr. Arar has already been disclosed to the public in an effort to silence Mr. Arar. The case reveals shoddy intelligence work, racial profiling, reliance on statements given under torture, and a refusal to interview Mr. Arar after he retained counsel. *We need to question how the intelligence services could make so many errors and jump to the wrong conclusion about Mr. Arar. Did their intelligence come from statements taken from regimes that engage in torture? Did they give credence to the statements that were provided from persons who were subjected to torture? Did they engage in racial stereotyping when gathering or assessing their information?*

In terms of sharing information concerning Mr. Arar with the United States, we have been repeatedly told that Canada has 'seamless' information sharing with the United States. *What does this mean? When was the information about Mr. Arar provided to the U.S. authorities? What protocols exist for information sharing? Were Canadian officials aware of the potential consequences to Mr. Arar when they shared the information that was used to place him on the 'Viper Watch List'?*

Other even more serious questions arise about the actions of Canadian Officials when Mr. Arar was detained in the United States. *What role did consular affairs play?*

*Should Canadian officials have taken his pleas more seriously? Should they have intervened more strenuously with U.S. officials? Did they do enough in the critical days before his deportation to Syria? Did they have all of the information that they needed to carry out their functions effectively? Which Canadian government officials or elected representatives were consulted about Mr. Arar's situation?*

But most troubling in all of this are the repeated allegations of Canadian acquiescence to Mr. Arar's rendition to Syria. There are too many statements from too many sources pointing to a Canadian role—an approval by officials of the decision to send Mr. Arar to Syria. We now know that rendition to torture and, indeed, the use of torture in interrogation of suspects is part of a U.S. policy in its so-called War Against Terrorism. But it is not part of our policy here in Canada and goes against all that we value in society. *How could any official here in Canada take it upon him/herself to acquiesce to sending a citizen of this country to torture?*

And what of the role played by Canadian officials once Mr. Arar was in Syria? We know that CSIS officers visited Syria shortly after Mr. Arar's deportation there. *What were they doing there? Did they have any role in his interrogation? Did they provide questions to the Syrians? We know that they brought back to Canada his statement given under torture and that they had received the statements of others taken in similar circumstances. These statements became part of the so-called 'case' against Mr. Arar. We need to ask ourselves how our security agencies can place any credence in statements given under torture.*

We know from Gar Pardy that there were sectors in the Canadian government that did not want Mr. Arar returned to Canada. *Who are these people? How can any official of the Canadian government sanction the detention of Mr. Arar in the appalling conditions in which he found himself in Syria? Mr. Pardy has stated that the opposition from these people delayed Mr. Arar's return to Canada, prolonging his agony in Syria. Who in our government is responsible for delaying Mr. Arar's return by even one day?*

*Is this part of a secret government policy to keep suspects out of Canada even if they are Canadian citizens?*

There have been many intentional disclosures to the public from Mr. Arar's file over the course of the past year and a half. These have been detailed at length in the motion, which is to be heard on July 5, 2004. But these disclosures raise other serious questions. There is no doubt but that these revelations were intentional in order to justify the actions of the security agencies. This conduct violates Mr. Arar's privacy rights. In publishing these disclosures, the media was fulfilling its mandate and Mr. Arar does not dispute the role played by the media. *However, Mr. Arar wishes to know who provided information from his file in order to discredit him.*

It is now clear that the security agencies are attempting to prevent disclosure of the vast majority of the documents that will be considered by the Commissioner. *We must all ask whether this is a legitimate use of the National Security Confidentiality or an attempt to cover up its own wrongdoings. We must ask whether the public interest in receiving answers to these questions outweighs the public interest in suppressing this information, especially considering that much of the information has already been made public.*

Finally, public faith in our security and intelligence system has been damaged by the revelations of Mr. Arar's story. A thorough and open airing of the answers to the questions we have raised will help build a more reliable, more respected service. It will strengthen that service's ability to protect Canadians.

The case of Maher Arar goes to the very heart of our democratic values. It challenges all of us to answer difficult questions. We are all aware of the events of September 11 and of the threat posed by terrorism. But we cannot let this undermine the values that make our society free—respect for the rights of the individual and public accountability of all officials for their actions. We are confident that the Commissioner

understands the importance of the questions raised and will ensure that Mr. Arar and the public obtain the answers to the questions we have raised.

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