

ARAR INQUIRY UPDATE

Maher Arar Support Committee, info@maherarar.ca. Produced by volunteer labour.

RCMP give conflicting stories

Take Action!

- Vote in the new poll on maherarar.ca and encourage others to vote.
- Submit your comments to maherarar.ca on the *Have Your Say* page.
- Write a letter to your local newspaper and comment on the government's actions or on how the inquiry is progressing.
- Write to Prime Minister Paul Martin and tell him the government must stop undermining the work of the commission and start cooperating with it, because we all have a right to the truth. You can contact him by writing to:

Office of the Prime Minister
80 Wellington Street
Ottawa, ON
K1A 0A2
Fax: 613-941-6900
pm@pm.gc.ca

The testimonies of two RCMP officers at the Arar Inquiry last month sent conflicting messages about the nature of information-sharing between Canadian and U.S. government agencies.

Gary Loeppky, a senior official with the RCMP in 2002, spoke on the importance of caveats on information shared with U.S. agencies like the FBI. Earlier in the month, Michel Cabana, the officer in charge of the investigation into Maher Arar, testified that post 9/11 the RCMP operated in an environment in which "caveats were down."

Caveats limit the way in which information, gathered by one law enforcement agency and shared with

another, may be used. The Garvie report, a highly redacted document produced by the RCMP detailing the RCMP's role in the deportation of Arar, points to the lack of caveats in the information shared between Canadian and U.S. officials.

Cabana said he was instructed by his superiors that intelligence information was to be "free-flowing," in an attempt to halt further terrorist attacks. He also said a special "inter-agency agreement" had been signed between senior officials (what agencies/countries) to encourage openness.

However, when Loeppky testified later in the month, the message was quite different. Loeppky held firm that, despite new pressures

in the post-9/11 environment, caveats were still attached to all information shared with the U.S.

Inquiry lead counsel Marc David continually pushed the issue, creating a tension between the two testimonies.

"There was a term that was coined, and that was 'caveats were down.' Is that something that was to your knowledge?" David asked.

"No," Loeppky replied. On the second day of Loeppky's testimony, his stance on information sharing was questioned by Cabana's lawyer, Don Bayne. Bayne questioned Loeppky on his interpretation of caveats, and his understanding of the *Continued on pg 2*

An intro into U.S. law

"We all have a right to the truth"

This message welcomes you to the maherarar.ca website. And while the focus of our struggle has generally been the ongoing Canadian Inquiry, Maher Arar is seeking answers from all of the people who sent him to Syria, including the U.S. government

On August 9th, lawyers for Maher Arar challenged U.S. government officials move to quash his civil suit in Judge David G. Trager's court room in Brooklyn, NY. The defense, which includes such senior officials as John

Ashcroft and Tom Ridge, insist the evidence required to argue the case would jeopardize national security.*

The policy they invoke is the State Secrets Act, a piece of legislation that has come under close scrutiny in the debate on the balance between national security and human rights.

Another important aspect of this case is the Torture Victims Protection Act. The media and human rights groups around the world are watching the Arar v. Ashcroft case, as it is the

first time US officials have been sued under the Torture Victims Protection Act.

The following articles examine the Torture Victims Protection Act and the State Secrets Act.

**The recent court hearing did not end with a ruling by Judge Trager. Arar's lawyers were limited to arguing only the Motion to Dismiss, and not the issue of the State Secrets Privilege. Judge Trager will consider which aspects will be admissible in the civil case and report on in the coming months.*

Things to Come

Final Submissions will be made by September 12th

Justice O'Connor's Interim Report expected in early 2006

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work done by front-line officers like Cabana.

"And then when it gets down to the men in the trenches, I take it you never followed up to make sure

what they understood of [information-sharing policies], or never issued a written policy?"

"No, I did not," Loepky said.

Loepky said that while

written caveats may not have always accompanied information given to U.S. agencies, "there is an implied caveat."

State Secrets Act

The State Secrets Act was passed in 1953 in response to a lawsuit filed by widowed military wives. Their husbands died in a military aircraft crash, but when the women sought details, the government cited national security concerns and the privilege of "state secrets" was soon developed into U.S. case law.

Fifty years later, the accident report was revealed. It contained no information regarding national security, only indications of faulty maintenance.

The State Secrets Act allows the U.S. government to protect information it decides could threaten

national security. However, more often it is seen as an immunity card for the government.

The case of Sibel Edmonds, a former FBI translator now suing the government for retaliatory dismissal, is often compared with the *Arar v. Ashcroft* case. Recently appealed to the Supreme Court, the case centres around government knowledge of the 9/11 attacks, and a 100-trillion-dollar action filed by the victims families against Saudi government and various high-powered citizens.

U.S. lawyers for Maher Arar, working out of the Centre for Constitutional Rights in New York, argue

that it's too early for the court to dismiss the civil suit. This is because the case has not even reached the discovery phase, at which point Judge Trager could review the evidence (much of which has already been released to the public). They have also argued that the Act was not properly invoked.

In addition, much of the evidence that the U.S. government has raised concerns about is in relation to allegations that Arar is affiliated with al-Qaeda. This information is not necessary in establishing that the U.S. government's decision to send Arar to Syria was illegal.

Torture Victims Protection Act

The Torture Victims Protection Act was passed in 1991 to provide an avenue for torture victims to pursue civil lawsuits against those responsible for their experience. This includes non-U.S. citizens, and is not limited to the perpetrator of the act of torture, i.e. superiors can also be held accountable. The Act also defines torture, and states that location of the crimes is irrelevant.

A recent PBS documentary entitled *Justice and the Generals* examines the Torture Victims Protection Act and other policies which create a

"universal jurisdiction" for cases of torture, as well as genocide and similar crimes against humanity. Vice-president for the Centre for Constitutional Rights, the law firm representing Arar in his civil suit against the U.S. government, weighs in on the subject:

"Civil remedies include damage awards for injuries and punitive damages meant to deter future abusive conduct as well as send a message to others that such conduct is unacceptable. In addition to any money that can be collected, these cases are important to the victims and

their families. Plaintiffs are allowed to tell their stories to a court, can often confront their abusers, and create an official record of their persecutions."

<http://www.pbs.org/wnet/justice/>

[aw_background_torture.html](http://www.pbs.org/wnet/justice/aw_background_torture.html)

As Arar said in a recent interview with MetroWest Daily News, "[i]f I win the lawsuit or the judge allows us to go to discovery, I think I would call that the beginning of the healing process, but I cannot go back to a normal life until I get answers, until I get justice."