



Briefing Note to the U.N. Committee against Torture:

Canadian Commission of Inquiry regarding Maher Arar

May 2005

REDRESS, the World Organization Against Torture (OMCT), and the Association for the Prevention of Torture (APT), are members of a larger group of national and international NGOs that have been granted intervenor status in the Commission of Inquiry into the Actions of Canadian Officials in Relation to Maher Arar (“Arar Commission”). The Arar Commission was established by the Canadian Government to investigate the treatment of Mr. Maher Arar, a Canadian-Syrian dual national.

While transiting through a United States airport en route to Canada (travelling on a Canadian passport), he was detained by US authorities on the basis of intelligence information. After a relatively brief period in detention in the US, he was transferred to Syria via Jordan without any formal process and without his consent. He spent approximately one year in a Syrian detention centre; he alleges that he was systematically tortured there.

We are bringing this matter to the attention of the Committee to outline some of the issues raised by the case, and to identify serious problems with the process, that are seriously impairing the effectiveness of the inquiry.

The case of Mr. Arar raises the following issues, relevant to the Committee’s work:

- Whether the transfer of Arar to Syria, by the U.S., violated Article 3 of the *Convention against Torture*;
- How and when were Canadian officials involved in or informed about the decisions to detain and to transfer Arar? What did Canada do in response? Was any such action or inaction itself inconsistent with Canada’s obligations under Articles 3, 4, and 10 to 16?;
- How and when were Canadian officials involved in or informed about the interrogation and treatment of Arar? What did Canada do in response? Was any such action or inaction itself inconsistent with Canada’s obligations under Articles 4 and 10 to 16?;

- Heavily censored documents released by the Commission suggest that Canada requested, received, and made some use of the information obtained from Arar through the interrogations in Syria, raising the question of whether Canada's action or inaction (either using the information knowing the conditions under which it was obtained, or failing to fully ascertain the conditions under which it was obtained), was consistent with Article 15 and its general obligations;
- Finally, and most urgently, the Canadian Government has claimed "national security" and "foreign relations" interests over virtually all of the testimony and documents concerning Mr. Arar, blocking access by Mr. Arar, his lawyers, and the NGOs and their lawyers, not to mention the larger public. Much of the Commission process is occurring in secret with only the government and the Commission present. Apparently even the Amicus Curia, who was supposed to provide some element of scrutiny of the secret procedures, is only sporadically present. The Government would not even allow release of summaries of the in-camera evidence, which were prepared by the Commissioner, a Judge, and were specifically designed to avoid any undue risk to national security confidentiality concerns. In effect, the process now will force Mr. Arar and NGOs to make submissions in the factual inquiry without any idea of what was contained in the factual testimony and evidence. This raises the question whether the process is any longer sufficient to meet Canada's obligations to investigate and provide redress, arising from, among other sources, Article 14.

Redress, OMCT, and APT hope this Briefing Note will assist Committee Members to prepare questions and Concluding Observations that help ensure that the Arar Commission is able to effectively find and publicize the truth about the treatment of Mr. Arar by the various State actors involved.