



OFFICE OF THE PRESIDENT
CABINET DU PRÉSIDENT

November 24, 2003

The Right Honourable Jean Chrétien, P.C., M.P.
Prime Minister of Canada
80 Wellington Street
Ottawa ON K1A 0A2

Dear Prime Minister,

I write on behalf of the Canadian Bar Association, a national association representing over 38,000 lawyers and other jurists and dedicated to the improvement of the law and the administration of justice, to urge you to establish a full public inquiry into the case of Maher Arar.

The CBA is troubled by the U.S. government's action in deporting Mr. Arar, a Canadian citizen, to other countries for detention and torture. This action and the events surrounding it require explanation and accountability. Canadians need to be reassured that efforts to increase security are not unduly trumping rights that we all consider fundamental. They also need to be reassured that measures will be taken to avoid excesses we all see as regrettable. Through an inquiry to expose exactly what happened, and why, the Canadian government could respond adequately to the legitimate demand for answers about what went wrong.

In 2001, the CBA worked with your government to improve Bill C-36, *Anti-terrorism Act*. We repeatedly stressed our concern that any anti-terrorism initiative should "not usurp the very rights and freedoms that the terrorists themselves attack". We acknowledged the possibility that such a profound shift in our legal climate could easily trample the rights of Canadians, especially those vulnerable to discrimination based on race, religion or ethnic background. We urged independent review and close monitoring of the anti-terrorism legislation, and a three-year sunset clause to balance very quick passage of what was then characterized as necessary emergency measures responding to September 11, 2001. The concerns we expressed then about policies that strayed from the protections afforded by the *Charter* and about the sadly short shrift given to the rule of law appear now to many to have been well-founded. A public inquiry is needed to find out if this is so.

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The issues go far beyond the particulars of this case, calling into question the application of the rule of law and due process in Canada, and more specifically how securities forces are now permitted to operate. What level of suspicion triggered these events? What was the role of the United States in breaching both international and its own domestic law in deporting Mr. Arar to a country known to practise torture? If there were reasonable grounds for believing he had terrorist affiliations, why was Mr. Arar not returned to Canada for investigation, charging and trial? What role, if any, did Canada have in condoning Syria's use of torture to compel confessions? How did information seemingly pass so readily from Canada to a Syrian prison, and back again to Canada? And, how would Canada rationalize any involvement or omissions in this case, in light of core legal values under our own domestic law and the *Charter*, as well as adherence to international commitments, for example, as signatory to the *International Convention Against Torture*?

All Canadians, and especially Mr. Arar and his family, deserve answers. We ask you to initiate a full public inquiry to provide clear and reliable answers to the many questions that this case raises, and to confirm Canada's commitment to the rule of law and due process. Thank you for your attention to our concerns.

Yours truly,

A handwritten signature in black ink, appearing to read "F. William Johnson". The signature is fluid and cursive, with a long, sweeping tail that extends downwards and to the right.

F. William Johnson, Q.C.
President

cc.

The Honourable Bill Graham, P.C., M.P., Minister of Foreign Affairs

The Honourable Wayne Easter, P.C., M.P., Solicitor General of Canada

The Honourable Martin Cauchon, P.C., M.P., Minister of Justice and Attorney General of Canada