

**INTERNAL INQUIRY INTO THE ACTIONS OF  
CANADIAN OFFICIALS IN RELATION TO ABDULLAH ALMALKI,  
AHMAD ABOU-ELMAATI AND MUAYYED NUREDDIN**

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**AFFIDAVIT OF ALEX NEVE  
(in support of Amnesty International's application for participation)**

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I, **Alex Neve**, of the City of Ottawa, in the Province of Ontario, **make oath and state as follows:**

1. I am the Secretary General of Amnesty International ("AI") Canadian Section (English Branch) and as such have knowledge of the matters hereinafter deposed to.
  
2. I was hired as Secretary General of AI's Canadian Section in January, 2000. Prior to assuming this position I had been an active member of AI for 15 years, during which time I was employed by AI's Canadian Section and by AI's International Secretariat in London, England for three years. In addition to my experience with AI, I hold a Master of Laws degree in International Human Rights Law, with distinction, from the University of Essex in the United Kingdom.

**Amnesty International's expertise on international human rights issues**

3. AI is a worldwide voluntary movement founded in 1961 that works to prevent some of the gravest violations to people's fundamental human rights. AI's vision is of a world in which every person enjoys all of the human rights enshrined in the

Universal Declaration of Human Rights and other international human rights standards.

4. In pursuit of this vision, AI undertakes research and action focused on preventing and ending grave abuses of the rights to physical and mental integrity, freedom of conscience and expression, and freedom from discrimination, within the context of its work to promote all human rights.
5. AI is impartial and independent of any government, political persuasion or religious creed. AI is financed by subscriptions and donations from its worldwide membership, and receives no government funding.
6. AI has formal relations with the United Nations Economic and Social Council (ECOSOC), the United Nations Educational, Scientific and Cultural Organization (UNESCO), the Council of Europe, the Organization of American States, the Organization of African Unity, and the Inter-Parliamentary Union. In 1977, AI was awarded the Nobel Peace Prize for our work in promoting international human rights.
7. There are currently close to 2 million members of AI in over 162 countries. There are more than 7,500 AI groups, including local groups, youth or student groups and professional groups, in more than 90 countries and territories throughout the world. In 55 countries and territories the work of these groups is coordinated by national sections like AI Canada. The organizational structure of AI's Canadian Section (English branch) includes a board of 12 directors elected across the country, specific country and issue coordinators in each region and province, and a membership of approximately 60,000.

#### **Amnesty International's work on security and human rights**

8. Throughout more than 45 years of research and documentation AI's reports have shown that governments around the world have consistently used "security" as an

excuse for violating the full range of universally protected human rights. In the name of “security”, governments have conducted mass arrests of ethnic or religious minorities, tortured political opponents, and launched military action that has resulted in huge numbers of civilian deaths.

9. Long before events following September 11, 2001 brought the issue of human rights violations committed in the name of security to the forefront of global debate, AI has highlighted this concern in countries on every continent. In every instance, no matter the context, AI has repeatedly underscored the central role that human rights must play in all laws, policies and practices governments adopt to counter terrorism and enhance security. We have highlighted that the debate about human rights *versus* security is a false debate.
10. Since September 11, 2001, AI Canada has played a prominent role in promoting a human rights framework for the Canadian government’s response to security-related issues. AI representatives have done so in media interviews, meetings with government officials, appearances before parliamentary committee hearings, and in public presentations.
11. AI Canada has published a number of briefs on the subject of security and human rights. These include:
  - *Protecting Human Rights and Providing Security: Amnesty International’s Comments with Respect to Bill C-36*, November 6, 2001;
  - *Real Security: A Human Rights Agenda for Canada*, May 2002;
  - *At Home and Abroad: A Human Rights Agenda for Canada*, October 2003;
  - *Securing a Commitment to Human Rights in Canada’s Security Laws and Practices: Opening Submissions of Amnesty International Canada to the Commission of Inquiry into the Actions of Canadian Officials in Relation to Maher Arar* (hereinafter “the Arar Inquiry”), June 14, 2004;
  - *Security through Human Rights: Amnesty International Canada’s Submission to the Special Senate Committee on the Anti-Terrorism Act and House of Commons Sub-Committee on Public Safety and National Security as part of the Review of Canada’s Anti-Terrorism Act*, May 16, 2005;
  - *A Human Rights Approach to National Security Confidentiality* (Submission to the Arar Inquiry), May 28, 2004;

- *Redoubling the Fight Against Torture: Amnesty International Canada's Brief to the UN Committee against Torture with respect to the Committee Consideration of the Fourth Periodic Report from Canada*, October 8, 2004;
- *Above all Else: A Human Rights Agenda for Canada*, December 2004;
- *Protection Gap: Strengthening Canada's Compliance with its International Human Rights Obligations* (Amnesty International Canada's Submission to the United Nations Human Rights Committee on the occasion of the consideration of the Fifth Periodic Report of Canada), 2005; and
- *It is Time to Comply: Canada's Record of Unimplemented UN Human Rights Recommendations*, December 19, 2005.

### **Amnesty International's work on torture**

12. Of particular concern to AI in the context of the current global and national debate about security and human rights has been the issue of torture. The prohibition against torture is an absolute human right. It is one of the universally applicable principles recognized in the UDHR, the cornerstone of the international human rights system. Since 1948, the prohibition against torture, has been reaffirmed and elaborated in legally binding treaties such as the *International Covenant on Civil and Political Rights* ("ICCPR"), adopted by the United Nations General Assembly in 1966, and the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* ("CAT"), adopted by the United Nations General Assembly in 1984. It has been recognized and specified in numerous other international and regional treaties and non-treaty standards, adopted by the UN and by regional intergovernmental bodies.
13. Canada's compliance with its international obligations to prevent torture is a matter of ongoing interest for AI. AI has submitted numerous briefs to UN international treaty bodies with respect to Canada's compliance with its human rights obligations. These include briefs to the United Nations Committee against Torture, with respect to that Committee's periodic review of Canada's compliance with the CAT in 2000 and 2004; and a brief to the UN Human Rights Committee on Canada's compliance with the ICCPR in 2005, a portion of which outlined concerns regarding article 7 of the Covenant, the absolute ban on torture.

### **Amnesty International as proposed intervener**

14. AI has a well-established track record of intervening in judicial proceedings in Canada dealing with issues related to national security and international human rights. AI has been granted leave to intervene in several Supreme Court of Canada appeals. These have included: *Suresh v. Minister of Citizenship and Immigration*, [2002] 1 S.C.R. 3, where AI presented submissions to the Court regarding the nature and scope of the international prohibitions against torture; *United States of America v. Burns and Rafay*, [2001] 1 S.C.R. 283, where AI provided information to the Court on the significant international movement towards abolition of capital punishment; and *Charkaoui v. Canada (Citizenship and Immigration)*, 2007 SCC 9, where AI made submissions to the Court on the failings of the immigration security certificate process, as well as the issue of prolonged detention. Amnesty International was also granted intervener status at the Ontario Court of Appeal in *Bouzari v. Islamic Republic of Iran* (Court file C38295, June 30, 2004), a case involving the right of a torture victim to sue for compensation from the offending government.
  
15. Amnesty International was also granted intervener status at the Commission of Inquiry into the Actions of Canadian Officials in relation to Maher Arar, where we made submissions on several issues related to this Inquiry. Our submissions touched on issues of government responsibility and accountability for the torture and mistreatment of its citizens abroad, information sharing practices, as well as the need to have effective mechanisms in place to protect citizens from torture and mistreatment abroad. AI also stressed Canada's responsibility to protect its citizens from potential torture and mistreatment, as well as the need to ensure that any national security investigations, as well as the practice of Canadian government and agency officials comply with the government's international human rights obligations.

### **Amnesty International's genuine concern in this Inquiry**

16. AI has a genuine concern in the subject matter of this Inquiry. The interaction between the right to security and other human rights, such as the prohibition against torture, has been a centre-piece of AI's work in recent years, and a central aspect of our work for more than 45 years.
17. AI has demonstrated its interest in the subject matter of this Inquiry through its longstanding work to ensure that human rights are not violated in the name of security, and its representations on the subject of security and human rights to the Canadian government, international human rights bodies, and through the media, to the Canadian public.
18. Most relevant, however, is the fact that AI has spoken out frequently and forcefully regarding the cases of Mr. Almalki, Mr. Abou-Elmaati, and Mr. Nureddin, beginning soon after their release from imprisonment and return to Canada. AI initially pressed for individual investigations or inquiries for each of them and then when all three cases had come to light, pressed for one comprehensive review or inquiry into the circumstances of their detention, torture and mistreatment in Syria and Egypt.
19. Public actions on Mr. Almalki's case were issued while he was still in prison in Syria, in 2003 and 2004 (Exhibit "A"). AI raised all three cases and the need for an investigation into their detention and torture in Syria and Egypt, as well as potential involvement of Canadian officials in numerous public statements, presentations and reports released in 2005 and 2006 (Exhibit "B"). AI members across Canada actively worked towards that goal, circulating petitions, writing letters, and speaking about the cases in their communities. More recently, at a press conference on 12 October 2006, AI again pressed for an investigation into the detention and mistreatment of Mr. Almalki, Mr. Abou-Elmaati, and Mr. Nureddin in Syria and Egypt, as well as the possible involvement of Canadian officials. A media report of this conference is attached as Exhibit "C".

20. AI has also repeatedly raised the cases of Mr. Almalki, Mr. Abou-Elmaati, and Mr. Nureddin in correspondence with the Canadian government between 2003 and 2006. We repeatedly called for an investigation of allegations that actions of Canadian officials may have directly or indirectly led to the violations of their human rights in detention in Syria and Egypt. Moreover, AI raised concerns that the three cases combined with Mr. Arar's deportation and torture in Syria all pointed to possible involvement on the part of Canadian law enforcement or security agencies. As an example, a copy of AI's open letter to the Prime Minister on 7 June 2005 raising this potential pattern is attached as Exhibit "D".
21. In an earlier letter to the Prime Minister on 4 November 2003, AI raised the case of Mr. Almalki who was still detained in Syria, urging the government to intervene on Mr. Almalki's behalf to protect him from further torture and mistreatment. Mr. Almalki described the extent of his experience of torture while in Syrian detention to Mr. Arar, whom he met in the final two weeks of Mr. Arar's detention in Syria. A copy of this letter is attached as Exhibit "E". AI continued to express its concern and called on the government to launch an investigation into Mr. Almalki's case throughout 2004 and 2005.
22. Beginning in February 2004, AI repeatedly wrote to the Canadian government raising the potential involvement of Canadian government and agency officials in the detention of Mr. Nureddin in Syria, and calling on the government to broaden the scope of the Arar Inquiry to cover Mr. Nureddin's case. A copy of this correspondence is attached as Exhibit "F".
23. Beginning in November 2003, AI wrote to the Canadian government to raise concern of reports that Mr. Abou-Elmaati was being held in an Egyptian prison for close to two years, and allegations that he had been tortured in Syria before being transferred to Egypt. A copy of this letter is attached as Exhibit "G". AI has raised Mr. Abou-Elmaati's case many times since then as well.

24. AI has also raised the cases of Mr. Almalki, Mr. Abou-Elmaati, and Mr. Nureddin before Parliamentary Committees. On 16 May 2005, AI appeared before the Senate Special Committee on the Anti-Terrorism Act and highlighted these three cases alongside Maher Arar, and the concerns that they were reflective of a pattern that showed disregard for Canada's international human rights obligations. AI also raised the cases on 21 September 2005 in an appearance before the House of Commons Subcommittee on Public Safety and National Security of the Standing Committee on Justice, Human Rights, Public Safety and Emergency Preparedness, as well as on 9 November 2006 in an appearance before the Standing Committee on Citizenship and Immigration.
25. AI raised these cases as well at the UN, including the UN Committee Against Torture and the Human Rights Committee. A copy of AI's briefs to the Committee Against Torture and the Human Rights Committee are attached as Exhibit "H". AI welcomed the Human Rights Committee's recommendation to Canada in April 2006 that an inquiry of the sort now being carried out by this Inquiry be convened. A copy of the Human Rights Committee's recommendation is attached as Exhibit "I". AI frequently called on Canada to comply with the Human Rights Committee's recommendation.
26. AI was also heavily involved in the case of Maher Arar, pressing for an investigation into the circumstances of his deportation and detention in Syria, as well as actively participating in the subsequent Inquiry. AI made several submissions to the Arar Inquiry on Canada's responsibility to protect its citizens from potential torture and mistreatment abroad, as well as the need to ensure that any national security investigation comply with the government's international human rights obligations. A copy of AI's opening and final submissions to the Inquiry is attached as Exhibit "J".



### **Amnesty International's particular perspective and expertise**

27. The questions of this Inquiry go to the heart of fundamental precepts such as the rule of law and respect for basic human rights. The three individuals who are the subjects of this Inquiry were never charged with any crime, let alone an offence related to planning, supporting or carrying out terrorist act. Their situations have arisen in a post-September 11 climate in which accusations of terrorism, often vague and unsubstantiated, lurk in the shadows of criminal justice and immigration systems around the world.
28. AI has unequivocally condemned acts of terrorism round the world. We have also stressed that the actions taken by governments to prevent and respond to terrorism must conform with fundamental human rights protections. But those essential principles have been challenged, directly and indirectly, by governments around the world who justify their actions by pointing to the new global imperative to fight “terrorism” and enhance security.
29. AI's interest in this Inquiry is rooted in the following concern: when universal human rights are undermined, no matter the excuse, injustice and insecurity are the inevitable results.
30. AI is interested in providing constructive submissions with respect to international human rights standards in the course of this inquiry for three important reasons. First, attention to that human rights framework is essential to ensuring appropriate justice and accountability for Mr. Almalki, Mr. Abou-Elmaati, and Mr. Nureddin.
31. Second, a human rights analysis will shed light on the potential systemic failings of the government to protect Canadian citizens who have been detained and reportedly tortured abroad in circumstances which suggest some level of knowledge or indirect involvement by Canadian law enforcement or security agencies.

32. Third, measuring what happened in these cases against Canada's international human rights obligations may point to further reforms needed to Canadian laws, institutions or practices, to prevent future violations of fundamental human rights of Canadian citizens.
33. AI believes that our involvement in the Inquiry will be of benefit because of our extensive involvement in and knowledge of the circumstances of these cases. We would bring to the Inquiry a perspective that is grounded in an international human rights framework and is well informed by comprehensive research and reporting on the issue of "human rights and security" worldwide.
34. I believe that AI brings a unique perspective and approach to the issues raised in this Inquiry. I am aware of the positions taken by other organizations seeking intervenor status, and to my knowledge none of the other parties or intervenors propose to address the issues from the perspective of a non-governmental international human rights organization with our unique experience, expertise and history with the issues of torture, human rights and security.
35. If granted leave to participate, AI will be mindful of submissions made by parties and other intervenors and will seek to avoid duplication of argument and materials before the Inquiry.
36. I make this affidavit in support of Amnesty International's application for participation at the Inquiry and for no other or improper purpose.

Sworn before me at the City of Ottawa )  
In the Province of Ontario )  
This day of March, 2007 )

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A Commissioner, etc.

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**Alex Neve**