

The Honourable Stockwell Day  
Minister of Public Safety and Emergency Preparedness  
House of Commons  
Ottawa, Ontario  
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By fax: 613 995 1154

December 12, 2007

Dear Minister,

One year ago today, the second report from the Commission of Inquiry into the Actions of Canadian Officials in Relation to Maher Arar was released. That report, *A New Review Mechanism for the RCMP's National Security Activities*, marked the completion of the policy phase of the Inquiry. In it, Commissioner Dennis O'Connor laid out a set of thirteen recommendations for a new approach to review of the national security activities of the RCMP and five other federal departments and agencies: the Canada Border Services Agency, Citizenship and Immigration Canada, Transport Canada, the Financial Transactions and Reports Analysis Centre of Canada and Foreign Affairs and International Trade. We are writing this open letter now because we are deeply concerned that one year later there is no evident progress towards implementation of these important recommendations.

All of our organizations had been Intervenors in the Inquiry and had actively participated in the consultations Commissioner O'Connor conducted in the lead up to the preparation of this report. We welcomed the report, which we felt provided a comprehensive, effective and very necessary blueprint for reform of Canada's complex and ineffectual review mechanisms for government agencies and departments involved in national security activities.

Maher Arar's case had starkly illustrated the inadequacies of Canada's existing review bodies and processes. Those shortcomings were only addressed through the convening of a public inquiry. That has been further underscored by the necessity to again convene a Commission of Inquiry to examine three other cases – Abdullah Almalki, Ahmad Abou Elmaati and Muayyed Nureddin – currently being conducted by Commissioner Frank Iacobucci.

Clearly it is neither workable nor fair to expect that a public inquiry will be established every time serious concerns emerge about possible human rights violations or other wrongdoing in the context of Canadian national security investigations or operations. That is why it is so vital that Commission O'Connor's recommendations be implemented without further delay.

There is still a pressing need for improved review mechanisms. There are other cases involving troubling unanswered questions about illegal, improper or deficient conduct by Canadian law enforcement, security or diplomatic officials. Public inquiries have not been convened to examine these cases and other opportunities for review are either non-existent or inadequate. These individuals would have recourse to a meaningful review process if Commissioner O'Connor's recommendations had been enacted. Instead, their demands for justice and accountability have nowhere to go.

Benamar Benatta was summarily and almost certainly unlawfully handed over to US officials, six days after making a refugee claim in Canada on September 5, 2001. He was imprisoned in the United States for close to five years, even though he had been cleared by the FBI within two months of any suspicion of involvement in terrorist activities. In 2006 he was finally allowed to return to Canada, where he proceeded with his refugee claim and was recently granted refugee status. But he has been offered no explanations as to why he was handed over to the US in September 2001. His calls for a public review have gone unanswered. He has been left with no choice but to launch a law suit against the Canadian government. If Commissioner O'Connor's proposed new system was in place, there would be somewhere Mr. Benatta could turn.

Shahid Mahmood was not allowed to board an Air Canada flight from Vancouver to Victoria in May 2004 before Canada had an official no-fly list. He has unsuccessfully sought answers as to why that happened for over three years. He has recently decided that his only option has been to launch a formal complaint with the Canadian Human Rights Commission. If Commissioner O'Connor's proposed new system was in place, there would be somewhere more expeditious Mr. Mahmood could turn.

Commissioner O'Connor's recommendations would have great benefit beyond national security cases as well, for he has called for a new Independent Complaints and National Security Review Agency for the RCMP to be created, with jurisdiction to review all RCMP activities, not only those related to national security. It is possible that if that body had been created it would not have been necessary to launch the numerous reviews, including a provincial public inquiry, that have been launched into the tragic case of Robert Dziekanski, who died after being subdued with a taser by RCMP officers at Vancouver International Airport in October, 2007.

Minister, one year is too long to wait. Human rights protection, accountability and the rule of law are at stake. We urge you to immediately and publicly outline a timeline and plan of action for implementation of Commissioner O'Connor's recommendations for improved review of national security activities in Canada.

Sincerely,

Alex Neve, Secretary General, Amnesty International Canada

Mark Thomson, Secretary General, Association for the Prevention of Torture

Jason Gratl, President, British Columbia Civil Liberties Association

Mohamed Boudjenane, Executive Director, Canadian Arab Federation

Faisal Kutty, Vice-Chair, Canadian Council on American Islamic Relations

Dr. M. Elmasry, President, Canadian Islamic Congress

Hassan Yussuff, Secretary Treasurer, Canadian Labour Congress

Maude Barlow, National Chairperson, Council of Canadians

Gerry Barr, Co-Chair, International Civil Liberties Monitoring Group

Mark Arnold, Co-Chair & Senior Legal Advisor, International Coalition Against Torture

Paul Copeland, Bob Kellermann, Steering Committee member, Law Union of Ontario

Zai Sarkar, Vice Chairman, Muslim Community Council of Ottawa-Gatineau

Bahija Réghaï, President, National Council on Canada-Arab Relations

Tony Clarke, Director, Polaris Institute

Carla Ferstman, Director, Redress Trust

Boris Wijkström, Legal Advisor, World Organization Against Torture (OMCT)