

**COMMISSION OF INQUIRY INTO THE  
ACTIONS OF CANADIAN OFFICIALS IN  
RELATION TO MAHER ARAR**

**REPORT OF PROFESSOR STEPHEN J. TOOPE  
FACT FINDER**

**14 OCTOBER 2005**

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## **Mandate of the Fact Finder**

On 27 July 2005, Mr. Justice Dennis O'Connor, Commissioner of Inquiry into the Actions of Canadian Officials in Relation to Maher Arar, issued terms of reference appointing me as Fact Finder for the Commission. My mandate was set out in precise terms:

*Pursuant to the Commission's "Ruling on Process and Procedural Issues" of May 9, 2005, I hereby appoint Prof. Stephen J. Toope as a fact finder for the Commission, with the following terms of reference:*

*To investigate and report to the Commission on Mr. Maher Arar's treatment during his detention in Jordan and Syria and its effects upon him and his family.*

My role is not to reach factual conclusions on the role of Canadian officials in the saga of Maher Arar. Rather, I am to determine with as much specificity as possible what happened to Mr. Arar in Jordan and Syria and to assess the effects of those events and experiences upon Mr. Arar and his family. Given the short time that Mr. Arar spent in Jordan, and his very limited interactions with Jordanian security officials, I determined at the outset of my inquiries that the Jordanian leg of his difficult travels would not be material to an assessment of his experiences or their effects. In the course of my investigations it became clear that to assess effects it was also necessary to consider what happened to Mr. Arar upon his return to Canada, and in the months and years following his return. These events and experiences are the direct consequence of what happened in Syria, and so fall within my terms of reference. In other words, it is not possible to consider "effects" without considering the interplay of the raw events in Syria with the reactions to Mr. Arar upon his return and the experience of the Commission of Inquiry itself.

## **Process**

### **Review of Written materials**

I began my investigations by reviewing publicly available reports detailing the human rights situation in Syria. In considering the materials on Syria, I focussed upon admittedly rather sketchy descriptions of detention facilities and reports of interrogation techniques employed by the Syrian security services. I paid particular attention to any references to the Far Falestin detention centre, where Mr. Arar had reportedly been held for most of his time in Syria. The reports consulted, which were authored by both governmental and non-governmental entities, are listed in *Appendix A* to this report.

I also requested and received from Dr. Donald Payne, Board Member of the Canadian Centre for Victims of Torture and expert witness before the Arar Inquiry, case reports of four patients he had worked with in the early-to-mid-1990's, who claimed to have been tortured while in Syrian detention. I determined that these reports might help to establish patterns that persisted over a period of time. These case notes were, of course, private, but there was no nominate information in the reports; nor were any personal details provided that might allow for the identification of the patients.

I then reviewed all of the relevant public testimony before the Arar Commission that related to Mr. Arar's conditions of detention and his experiences in interrogation. In particular, I focussed upon the expert testimony of Professor Peter Burns, Former Chair of the United Nations Committee Against Torture; Dr. Donald Payne, who testified on the physical and psychological effects of torture; and Professor Richard Ofshe, an expert on the classification of true and false confessions.

## **Interviews**

With this background information in mind, I then interviewed Mr. Abdullah Almalki, Mr. Ahmad Abou-ELMaati and Mr. Muayyed Nureddin, each of whom described in vivid detail their experiences in Syrian detention facilities, and in particular in Far Falestin. The testimony of these men was not taken under oath, but my purpose was to compare their descriptions with the information that I had gleaned from the case reports of Dr. Payne and the publicly available reports concerning the conditions of detention at Far Falestin and the interrogation "techniques" of the Syrian security forces. I would later have to assess the credibility of this testimony, and then relate it to what I would be told by Mr. Arar himself. In gathering the information from Messrs. Almalki, ELMaati and Nureddin, I was careful to allow them to tell their stories in an unfiltered way, never posing leading questions. I wanted to let as much detail come forward as possible, detail that I would later use to compare with the testimony of Mr. Arar.

I also interviewed people who had worked closely with Mr. Arar since his return to Canada from Syria, and health professionals with whom Mr. Arar had consulted. In these interviews, I focussed primarily upon the effects of Mr. Arar's experiences on his physical and psychological health, on his social and familial relationships, and on his economic prospects. A complete list of interviews is found in *Appendix B*.

Finally, I interviewed Dr. Monia Mazigh, Mr. Arar's wife, and conducted two long in-person interviews with Mr. Arar, and one short telephone interview. In total, I spent almost 10 hours with Mr. Arar.

## ***In camera* Testimony and Un-redacted Documents**

The last step in my investigations was to review some *in camera* testimony and a small selection of un-redacted documents that were of direct relevance to my assessment of Mr. Arar's experiences in Syria. I chose the testimony and documents to examine after consulting with the Commissioner and with Commission counsel. I was not refused access to any material that I requested to see. This included the Canadian government's annual reviews of the legal, political and penal situation in Syria, notes taken by the Canadian consular officer, Mr. Léo Martel, after his consular visits with Mr. Arar (and some variations of these notes communicated to other Canadian government officials), and protected email communications amongst Canadian government officials during and after Mr. Arar's detention. It is important to state that there was nothing in the *in camera* testimony or the un-redacted documents that caused me to materially modify my assessment of the facts surrounding Mr. Arar's detention. I discovered no "secret" material that caused me to re-evaluate the information that had been provided in public sources.

## What Constitutes “Torture”?

Even while Mr. Arar was in detention in Syria, reports circulated that he was being subjected to torture. A report of the Syrian Human Rights Committee, an NGO based in London, provided certain details that Mr. Arar himself later contradicted and clarified. In his first public statement on the conditions of his detention, delivered on November 4, 2003, a month after his return to Canada, Mr. Arar described his treatment in the context of torture. He stated:

The next day I was taken upstairs again. The beating started that day and was very intense for a week, and then less intense for another week. That second and the third days were the worst. I could hear other prisoners being tortured, and screaming and screaming. Interrogations are carried out in different rooms.

One tactic they use is to question prisoners for two hours, and then put them in a waiting room, so they can hear the others screaming, and then bring them back to continue the interrogation.

The cable is a black electrical cable, about two inches thick. They hit me with it everywhere on my body. They mostly aimed for my palms, but sometimes missed and hit my wrists they were sore and red for three weeks. They also struck me on my hips, and lower back. Interrogators constantly threatened me with the metal chair, tire and electric shocks.

The tire is used to restrain prisoners while they torture them with beating on the sole of their feet. I guess I was lucky, because they put me in the tire, but only as a threat. I was not beaten while in tire.

They used the cable on the second and third day, and after that mostly beat me with their hands, hitting me in the stomach and on the back of my neck, and slapping me on the face. Where they hit me with the cables, my skin turned blue for two or three weeks, but there was no bleeding. At the end of the day they told me tomorrow would be worse. So I could not sleep.

Then on the third day, the interrogation lasted about eighteen hours.

From the earliest descriptions of his ordeal, to the first public statement, and in all the subsequent representations of his counsel before the Commission, Mr. Arar has asserted that he was tortured. It is therefore necessary for me to enter the grim realms of defining what is meant by the term torture.

In assessing what constitutes torture, I am assisted by well-established international law standards and by clear testimony before the Commission. In the United Nations *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* of 1984 [hereinafter *Convention Against Torture*], “torture” is defined in Article 1 as:

...any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a

third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.

The *Convention Against Torture* is ratified by 140 states, including Canada (in 1985) and the Syrian Arab Republic (in 2004).<sup>1</sup> The definition of torture contained in the Convention is widely supported, and can serve as the appropriate basis for assessing whether or not Mr. Arar was indeed subjected to torture.

The definition in the *Convention Against Torture* contains five elements: (1) the intentional (2) infliction of severe pain or suffering, (3) whether mental or physical, (4) for a range of purposes (5) when inflicted by, or at the instigation of, or with the consent or acquiescence of a public official or a person acting in an official capacity.

In his expert testimony before the Commission, Professor Peter Burns reviewed the experience of the Committee Against Torture, the treaty body set up to hear state reports and individual complaints under the *Convention Against Torture*. Professor Burns is a former Chair of the Committee. He emphasised that the Committee has paid much attention to the severity of the pain or suffering that is necessary to constitute torture and to the purposive requirement of the definition. When asked directly by counsel for Mr. Arar whether being “beaten repeatedly with an electrical cord during the course of interrogations that sometimes lasted as long as 18 hours” would meet the Committee’s requirements for severity, Professor Burns replied: “If that was established, in my view that would certainly be torture”. (Burns testimony, pp. 5920-5921)

The questioning of Professor Burns then turned to the conditions of detention described by Mr. Arar. Mr. Arar’s lawyer described the cell in which Mr. Arar said that he was held for over 10 months, and was asked if these conditions of detention might in and of themselves constitute severe pain or suffering as understood by the Committee Against Torture. Professor Burns answered:

Assuming that that was established, and assuming the medical evidence supported it, I would regard it as torture, again subject to the purposive aspect of the definition. (Burns testimony, p. 5922)

On the “purposive” requirement of the definition, Professor Burns went on to explain that to constitute torture, it would not be enough that conditions of detention might be appalling or that Syrian officials were conducting interrogations and applying severe force. The infliction of severe pain or suffering would have to be for a purpose, such as the extraction of a confession, or another purpose referred to in Article 1 of the Convention.

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<sup>1</sup> See the website of the UN High Commissioner for Human Rights: <http://www.ohchr.org/english/countries/ratification/9.htm>

In determining whether or not Mr. Arar was tortured, I looked for each of the elements contained in the definition of the *Convention Against Torture*. I was especially attentive to the issues of severity of pain and suffering, and purpose. The other three elements of the definition are more straightforward, with the possible exception of intention. Although intention is often considered a difficult problem in the imposition of criminal liability, it is less problematic in the definition of torture for two reasons. First, the types of force used in torture typically reveal intention. One does not apply electric shocks without intending to produce pain and suffering. Second, if one can discern a purpose in the application of force, the intention to harm is relatively easy to impute.

## **Findings of Fact**

### **Assessing credibility**

In finding facts concerning Mr. Arar's experiences in Syria, I must conclude as to the credibility of his testimony, which was not taken under oath. Given the very nature of detention and interrogation, much of the detail concerning what happened to Mr. Arar in Syria cannot be verified by eyewitness observers. None of the jailers or interrogators was available for me to interview. To assess credibility, I have obviously had to judge the person sitting before me and telling me his story. I have listened to Mr. Arar attentively and watched him closely. I have tried to compare his demeanour and his reactions to the scores of other torture victims and detainees I have interviewed on human rights monitoring missions in numerous countries, and in testimony before me at the United Nations Working Group on Enforced or Involuntary Disappearances where torture victims have also appeared. I have also undertaken a careful comparison of public sources about detention conditions and interrogation practices in Syria and the testimony before me. Finally, I have cross-referenced the detailed descriptions provided to me by the four men I interviewed who discussed their detention and treatment in Far Falestin. In undertaking that cross-referencing, I have also implicitly had to assess the credibility of the descriptions offered by Messrs. Almalki, ELMaati and Nureddin. To do this, I have repeated the same practices used to judge the reliability of Mr. Arar.

I must emphasise that in assessing credibility, I am limiting myself to the parameters of my mandate: I am judging only whether or not the stories told to me concerning the conditions of detention in Syria and the practices of Syrian security services are believable and likely to be true. Within these parameters, I am confident in concluding that the descriptions offered by Messrs. Almalki, ELMaati and Nureddin were convincing.

Mr. ELMaati was held in Syrian detention from November 2001 to January 25, 2002, when he was transferred to Egyptian custody. During his first interrogation he was mocked and insulted. In what may seem surprising at first blush, insults were highlighted by Mr. ELMaati as a particularly troubling feature of his first interrogation, even though he was also punched and kicked. This is a pattern repeated by all the men I interviewed who had been held in Far Falestin. Each described in vivid detail the dehumanizing effect of the "dirty" or "nasty" words used by the interrogators. None of them even wanted to repeat these words. Mr. Almalki, who was detained from 3 May 2002 to 29 February 2004, explained the psychological effect most directly: he suggested that when the dirty words were used, he realized that he was going to be treated very badly. It was a shock delivered to his whole system.

The words also worked harm and created fear at a deep cultural level. The men I interviewed were all committed Muslims. They found the words deeply offensive from a religious perspective, especially when the words were used in relation to mothers, sisters or wives, and linked to threats. It must also be said that the use of “dirty” words seems to have confirmed cultural stereotypes. Two of the men I interviewed emphasized that the interrogators at Far Falestin were not traditional Sunni Moslems, but Alawites (a favoured group under the Baathist regime). There was a high level of distrust, even disgust that I sensed in their descriptions of the interrogators, rooted not only in suffering but in cultural incompatibility.

Mr. ELMaati also offered a lengthy and highly specific description of the cell in which he was held. He remembered cell Number 5 with horror, describing it as a “hell hole”. The cell was downstairs from the interrogation rooms, in a basement. It was approximately “190 cm high by 180 cm long by 90 cm wide”. A small window in the door was blocked. There was a small hole in the ceiling covered by bars. Mr. ELMaati found two blankets that smelled of urine. The cell was freezing cold, as it was winter and there was no heating.

This description of a cell at Far Falestin was mirrored almost exactly by Mr. Almalki. His cell was also downstairs from the interrogation rooms. It was small and dark, approximately 198 cm high by 185 cm long by 86 cm wide. Mr. Almalki was quite precise about the dimensions; he had decided to make a special effort to remember the conditions of the cell with care. For example, he remembered that the width was the length of his arm, plus the diameter of four fingers. He also described a hole in the ceiling some 25 by 15 cm, and mentioned that cats would sometimes urinate through the hole. The side and back walls were slick with condensation, and lice and cockroaches infested the cell. Large rats would sometimes squeeze under the cell door, presumably to look for food. On one very rare occasion when he was allowed to go outside for roughly 20 minutes, in July of 2002, Mr. Almalki took his blankets with him to air them. In the light he could see yellow and black growth on the blankets and “insulator” (two pieces of cloth stitched together to place under his blankets), that he had not seen in the dark cell. In winter the cell was freezing: “I used one of my underwear to put on my head just to warm my ears, I used socks on my hands...and all the clothes I have I was basically wearing”. In summer it was stifling hot. Mr. Almalki told me that his interrogators referred to the cell as “the grave”.

Mr. Nureddin was detained from 11 December 2003 to 14 January 2004. He struck me as a simple man: his descriptions were unembellished and visceral. He described his fear at being shown in an interrogation room a few links of chain on a wall and an open chair frame which he immediately deduced were used for torture. Many details of his testimony correlated closely to descriptions offered by Messrs. Almalki and ELMaati. For example, in one interrogation session two days after his arrest, Mr. Nureddin described how he was stripped to his underwear and had cold water poured over him while lying on his stomach under a fan. He was asked to raise his feet. He then saw a “black cable” which was used to beat him on the soles of his feet. This cable – which figures prominently in all the descriptions of beatings that I heard – was brought down on his feet some fifteen times. Then Mr. Nureddin was told to stand up. Cold water was poured on his feet to ease the searing pain, and he was ordered to run in one place before the procedure was repeated two more times.

Mr. Almalki described a similar pattern with even greater intensity. In his first interrogation session, on the night of his detention, Mr. Almalki was also partially stripped and told to lie on his stomach with his legs in the air. He was beaten with a black cable, in his case all over his body, but especially on the soles of his feet. Cold water was then poured on his feet and he was ordered to run in one place. He explained that this procedure actually restored feeling to the soles of the feet, and allowed the interrogators to begin the process again.

Mr. ELMaati was also treated to a stripping down to his underwear, pouring of cold water over him, and intense beatings with what he described as a “black electric cable roughly an inch thick”.

In the case of all three men, it is important to specify that they were being beaten explicitly to gain information and a confession to involvement in a terrorist organization or plot. Mr. ELMaati was asked about a map of a government complex in Ottawa that he knew had been discovered in the truck that he drove for a haulage company. He was specifically asked to “tell us the story of the map”. Mr. Nureddin was asked if he belonged to “Ansari Islam”. Mr. Almalki was asked “why everyone is looking for him” and was told to admit that he was “the right hand of Osama bin Laden”. At one point well into his detention, an interrogator told Mr. Almalki that he would be tortured for three days straight, that he would “not get out until you need to be hospitalized”. Or Mr. Almalki could confess to being a member of Al Qaeda and he might be released.

In each case, the men ultimately signed confessions or wrote out what they say they thought that interrogators wanted to read. Mr. ELMaati said that after three days of beatings he just could not resist any longer. Mr. Nureddin testified that he signed three documents that he had not read; he did so after hearing the screams of other torture victims, including women – which he found particularly upsetting. Mr. Almalki told me that after severe beatings he “was prepared to say more or less anything about myself”, but that it was “another thing to implicate someone else I did not know or did not know to have done anything”.

In his testimony before the Commission of Inquiry, Professor Richard Ofshe, a leading expert on the classification of true and false confessions from the University of California, Berkeley, emphasised that the use of physical force – he was questioned in the context of “torture” – is a “powerful motivator” for confessions (Ofshe testimony, pp. 5982-5983). He went on:

If the individual has already been convinced that the interrogator is immovable, then it makes no sense to resist the torture. The only thing in front of them is to minimize the torture. That is the only choice they’ve got. And they can do that by complying. ...And if you can succeed in cutting it [the torture] off by giving a false confession, that can start to look like a very attractive alternative... (Ofshe testimony, p. 5983)

This testimony is relevant because it helps to explain the psychological state of the men I interviewed who had been interrogated in Far Falestin. Each told me that at some point they concluded that they had to tell the interrogators whatever they wanted to hear. Professor Ofshe explains why the truth or falsity of a statement may come to mean nothing to a detainee in the face of continuing physical violence.

Dr. Donald Payne explained the psychological effects of torture slightly differently, but the consequences he describes align with those suggested by Professor Ofshe:

[T]orture has usually been...viewed as pain and suffering that is inflicted on somebody and people respond to reduce the pain, whereas seeing many individuals you come to recognize it is really destroying the will, humanity, spirit of the individual so that they lose control of themselves and are willing to give up control of themselves to their torturers. (Payne testimony, p. 6052)

This description is consonant with the statements of the men I interviewed who often spoke of their “humiliation” or of attacks on their “dignity”. But, like Professor Ofshe’s account, it helps to explain why one might “say anything” to stop physical abuse: one may simply give up control, including control over the truth about oneself.

Of all the testimony I heard, Mr. Almalki’s revealed the most intense pain and suffering. It is important to recount aspects of this testimony because it is the closest in certain descriptive elements to what I later heard from Mr. Arar. It is also important because Mr. Arar and Mr. Almalki overlapped in their respective periods of detention; the conditions they describe are closely interconnected.

When Mr. Almalki first arrived at Far Falestin, he was asked routine questions, and he was treated “decently”. Indeed, he thought that he could still convince the Syrian authorities with whom he had to deal that his arrest was “a mistake”. He was even told that he might be out in a “couple [of] hours”. He was then blindfolded and taken to another room, where he was asked whether he knew certain people. He remained blindfolded for roughly two days. After being asked about one person who Mr. Almalki said that he did not know, suddenly he received a hard slap across the face. Mr. Almalki described how he felt “transferred...to another world”:

I still remember that slap as if it’s happening right now, and I got, just so vivid in my memory...because I felt just that he, in humiliation that they sacked my dignity, they crushed my, you know, my personality, just, it felt so bad when they slapped me...

Thus began an interrogation session that continued for between seven and eight hours. That was when he was asked to strip to his underwear and to lie on his stomach on the floor. The “whole point [was] to have my legs at 90 degrees”. They started “hammering my soles. Basically it felt like lava just being poured over”. In later session when he was not blindfolded, Mr. Almalki saw that the interrogators used a black cable that “looks something like a, the alternator belt in the car”. He also saw black hoses “but they didn’t use them too much because they said this is not as painful as the cables”. Mr. Almalki specified that there were different styles of the cables used at different times, of “different thicknesses, different length, different ways of putting it together and taping it and twisting it on itself”.

After enduring beatings on his soles for some time, Mr. Almalki felt he could bear no more, and he flipped over. The five or six interrogators were angry, so they began kicking Mr. Almalki, and beating him all over with the cable. They stood on his back to restrain him. After more

lashes on Mr. Almalki's soles, the interrogators used the cooling method (cold water and running in place) described previously. The interrogation only stopped when Mr. Almalki lost consciousness, and woke up with a doctor checking his blood pressure.

Mr. Almalki was then taken to the dark cell described above. He later learned that he was in cell number three; he was called "Number Three" for the entire period of his detention. On this first day the cell was a refuge:

I just felt that I don't want to go through the hell again so if they would just keep the door shut... Well, few minutes in there I just felt like crying, I just cried, I, I just didn't know what to do.

Over the course of a few months, the cell would take on an overwhelmingly negative power, and Mr. Almalki would almost hope to be taken for interrogations (which by this time were much less violent) to escape from the conditions of his solitary detention.

Mr. Almalki also described in detail the bathroom routine for prisoners in the basement cells. The two cockroach infested washrooms were made available to prisoners one-by-one three times a day. A bottle was in his cell for urination. At first Mr. Almalki was allowed exactly two minutes for each bathroom visit. This limit was enforced rigidly, and forcefully. Mr. Almalki complained that two minutes was not always enough for bodily functions, and that he would have to stop eating. One guard began to allow Mr. Almalki an extra minute in the bathroom. Even this was not much of a help when a prisoner had diarrhoea, which was common because of the bad food and water. In such circumstances, waiting to use the bathroom could be excruciating. On Fridays, he remembered that roughly ten minutes was allowed for pre-prayer ablutions.

Early the next morning, his second day at Far Falestin, and only about four hours after the previous interrogation had ended, Mr. Almalki was called up again. He was interrogated for approximately eighteen hours straight, but the focus was on intense questioning, not intense physical pressure.

On the third day, he was called in the morning and immediately told to take off most of his clothes. Mr. Almalki was forced into a car tire, his neck shoved against an inner rim, his back bent double and his knees against the other side of the inner rim. He was then beaten severely, especially on his head, his soles and his genitals. The motivation was clear:

...for every point they were asking me about...keep on beating me till I answer with something that they were satisfied; and then they would move on to another point and they would keep on beating me for that point till, you know, they get satisfied either that what I was saying was true or I get them what they wanted.

This treatment lasted for some three or four hours. In a surprisingly mundane twist, lunch was then brought in and Mr. Almalki was given some chicken and a piece of orange. He remembered that the orange was very hard to eat because "the inner skin of my mouth was almost gone because of the screaming so it was burning to eat anything acidic, I guess".

Interrogation continued for roughly 40 days, but without applications of force comparable to those of the first three days. Then around the fortieth day, Mr. Almalki was called in for an interrogation and asked for the first time about any connection he might have with Mr. Maher Arar. This was part of a wider ranging set of questions involving a number of Mr. Almalki's friends and acquaintances, and about Mr. Almalki's business dealings. This questioning involved a new interrogator, who Mr. Almalki later discovered, was a Mr. George Salloum, the "head of interrogation" at Far Falestin.

On July 17, 2002, Mr. Almalki was called up for another session of interrogation. He remembers that

...the tone of the treatment was different. They asked me to wear the blindfold immediately once I got up. Basically this blindfold was a, you know, you have the prison floor then stairs up to the interrogation floor, once you are at the gate, the door from the stairs to the interrogation floor, at the right-hand side there is a bucket of water which has these rubber pieces, blindfolds, they keep in the water I guess to keep them soft. ... But at same time for annoying the prisoners and humiliating them their water is the filthiest I have ever seen.

Blindfolded, Mr. Almalki was taken into an interrogation room and immediately slapped, punched and questioned aggressively for roughly an hour or two. He was accused of lying to the interrogators during his past sessions. He was then taken back to his cell, but remembers that he could hear almost constant screaming from other prisoners being interrogated. He stressed that this was a common denominator throughout his stay at Far Falestin: hearing screams. It reached a point where "I could distinguish if someone is being tortured by the tire, the chair, electricity; each one had a different type of screaming..."

The next day, July 19<sup>th</sup>, Mr. Almalki was brought up for interrogation in the morning, but the approach was less aggressive. He was returned to his cell, then called back up at roughly 11 am, and "the humiliation started again...beating and calling names". Mr. Almalki was forced to stand on one foot facing the wall. When he lost balance or tried to change legs, he would be beaten. Then the chief interrogator, Mr. George Salloum, arrived and asked Mr. Almalki why he had lied. Mr. Almalki was then blindfolded and the beating recommenced, with repeated and powerful slaps across the face.

Then Mr. Almalki was forced onto his stomach, just as in the first three days of interrogation, and the black cable was used to "hammer" the soles of his feet. He was once again accused of supporting Osama bin Laden and of training with Al Qaeda in Afghanistan. After more beatings, which lasted until after midnight, Mr. Almalki said that he told the interrogators whatever they wanted to hear.

On July 20<sup>th</sup>, Mr. Almalki was brought back to a different, high-ceilinged, interrogation room. More brutal questioning began. He was partially stripped and slapped. The room had a border at the bottom of the wall, a cement projection about 10 cm wide, which was probably part of the building's foundation. At the top of the wall there was a metal window with bars. Mr. Almalki was forced to face outward with his back against the wall, his hands above his head holding the bars on the window while standing on the cement projection at the bottom of the wall. He then

had to let his feet slide from the ledge and hang, the window sill cutting into his wrists. When he slid down or fell, he would be beaten and told to suspend himself again. His hands and wrists were bleeding and the pain was intense. He was finally tied in this same manner to the bars, using strips of cloth, with his hands behind his head. The slapping continued, and Mr. Almalki was also hit with a belt and a black cable.

Mr. Almalki cannot remember how long he was kept in this position, as the pain blocked out his mental faculties. Finally, he was let down, but beatings continued all night. After this experience, Mr. Almalki gave in to the interrogators completely:

My policy after that was I wasn't willing to take any beating... I told them 'Whatever you want, I'll tell you what I know. If you want something else, I will sign a piece of paper, blank, and you fill it up with whatever you want or you can tell me what you want me to fill it up;' and I was really, I, I got to the point where I felt I cannot take any, you know, one more lash...

In fact, during the period in late July the interrogations continued to be harsh, though there were fewer intense beatings. Until August 24<sup>th</sup>. On that day another intensive session of beatings took place involving an unspecified number of interrogators. Mr. Almalki was again blindfolded.

In September and October, Mr. Almalki was questioned but without the application of physical force. Instead, he was threatened with new forms of punishment, including "the chair" which Mr. Almalki knew to be a brutal method in which a victim's back was twisted over the empty frame of a metal chair, producing intense pain. Many of the questions began to revolve around his relationship with Maher Arar. From November 2002 to August 2003, Mr. Almalki remained in the same dark cell, and was questioned regularly, but not with the same use of physical force that he had previously experienced. He emphasises that he spent 483 days in that horrible cell. In August of 2003, Mr. Almalki was transferred to Sednaya military prison, where he experienced some further beatings, but not of quite the intensity of those in Far Falestin. Here, however, the beatings were not to gain information, merely to punish or intimidate. Nor were the living conditions quite so harsh, except for a period of ten days at the beginning of his detention in Sednaya that he spent in another subterranean cell. He was released from Syrian detention on March 1, 2004.

Messrs. Arar and Almalki overlapped in Sednaya prison, where they were able to talk at some length. However, they apparently did not share all the details of their respective detention and interrogation experiences. They both told me that they were more preoccupied with daily survival and with discussing how to get out of detention. Since then, they have been in touch from time-to-time in Canada, but Mr. Arar says that they have not spoken for more than a total of five to six hours in person or on the telephone since their respective returns to this country. Mr. Arar states that when he saw the chronology of Mr. Almalki's detention that was published in the media, more than eighty per cent was new information to Mr. Arar. Mr. Arar and Mr. ELMaati did not know each other well, but apparently have become mildly acquainted recently as a result of the Inquiry. They had not discussed the details of their detention and treatment in Syria before Mr. Arar's story became public. Mr. Nureddin and Mr. Arar did not know each other and to my knowledge have still not been in touch.

Although there are strong similarities in the descriptions of Syrian detention and interrogation techniques offered by Messrs. Almalki, Arar, ELMaati, and Nureddin, I have been given no reason to suspect any collusion. Indeed, there are also some telling differences in what they described, differences that help me conclude that the similarities are based on authentic patterns and not on any collaboration to produce coherent stories.

The descriptions provided by Messrs. Almalki, ELMaati, and Nureddin were also consistent with the descriptions of Far Falestin available in public sources, but were much more detailed. For example, the 2004 Country Report on Human Rights Practices for Syria, published by the United States Department of State, notes that former detainees “reported torture methods” including “beating, sometimes while the victim is suspended from the ceiling”. The State Department reports that “torture was most likely to occur while detainees were being held at one of the many detention centers run by the various security services throughout the country” (State Department 2004, p. 2). The State Department’s Report for 2002 contained essentially the same information (State Department 2002, p. 2). Amnesty International’s Report of 2002 states that in Syria “[t]orture and ill-treatment continued to be inflicted routinely on political prisoners, especially during incommunicado detention at the Palestine Branch [Far Falestin]...”. (Amnesty International 2002, p. 2).

The practices described by Messrs. Almalki, Arar, ELMaati, and Nureddin also found strong echoes in the case notes provided to me by Dr. Payne. Refugee claimants previously held in Syrian detention in the early 1990’s also described tiny basement cells that were damp and dirty, hearing people screaming between their own interrogation sessions, being hit by cables, and being forced into a tire for beatings. The pattern of brutal beatings at the very beginning of detention followed by less “intense” interrogation was also reported by one of Dr. Payne’s patients.

The 2003 Annual Report of the Syrian Human Rights Committee provided more specific information. It referred to detainees in “Palestine Branch for Military Interrogation” who were “severely tortured and subject to immense physical and psychological abuse”. The report specifically mentioned Mr. Arar, who was said to have been subjected “to severe torture and intensive interrogation and charged with cooperating with Al Qaeda” (Syrian Human Rights Committee 2003, pp. 3-4). In a letter to Mr. Arar’s wife, Dr. Monia Mazigh, dated July 29, 2003, the Committee asserted that Mr. Arar was being subjected to extreme torture including “hitting with a baton and a fraying cable on the soles of his feet and on his body, the use of electricity and bending in an automobile tire for many hours”.

As will soon become apparent, the description of the Syrian Human Rights Committee was exaggerated. I take it to be a positive sign of his credibility that Mr. Arar was clear both in public and to me that his treatment was not as bad as suggested by the Committee. Mr. Arar knew what had been reported by the Committee before he made his first public statement detailing his treatment, yet his own description was more restrained. What is more, Mr. Arar also knew some of what Mr. Almalki had experienced but never sought to “out bid” Mr. Almalki in suffering. Indeed, Mr. Arar stated to me directly that he thought Mr. Almalki’s experience had been worse than his own. Throughout his testimony, Mr. Arar was remarkably measured. He was able to recall significant detail, but adjectives and adverbs were notably absent. He

struggled to remember at times, and only rarely lost his composure. When he did, it was almost always in reference to the suffering of someone else: Mr. Almalki, women that he heard being tortured, the idea of his children being left without him for a long time.

When I compare information available from public sources with the cross-referenced testimony of Messrs. Almalki, ELMaati, and Nureddin, I conclude that the stories they tell are credible. I believe that they suffered severe physical and psychological trauma while in detention in Syria. Mr. Almalki was especially badly treated, and for an extended period. When I compare all of this information to the story told to me by Mr. Arar, I am convinced that his description of his treatment in Syria is accurate. It is now time to turn to that story.

## **Torture in Syria**

When Mr. Arar was taken across the border from Jordan to Syria on October 9, 2002, he was already extremely worried and distraught. It is important to consider his state of mind even before he found himself in Far Falestin. He had been arrested in New York, and strip-searched, which he found “humiliating”. He had been held in the Metropolitan Detention Centre in Manhattan for eleven days (September 27<sup>th</sup> to October 7<sup>th</sup>), being interrogated. He was initially denied access to a lawyer, and had little food or sleep. His request to pray during the interrogation sessions had also been denied. His interrogators had insulted him and used “bad words”, which he found deeply upsetting. At 3:00 am one morning, he was awakened and told that the Director of the US Immigration and Naturalization Service had ordered that Mr. Arar be sent, not to Canada, as he says that he constantly requested, but to Syria. He told me that at this moment he began to cry and immediately said that he would be tortured. He felt “destroyed”.

Mr. Arar was then bundled into a van to New Jersey where he was loaded onto a private plane that began a long journey to Syria, via Washington, Portland Maine, Rome, and Amman. Throughout this trip of many, many hours, he was chained and shackled in the back of the plane. Only in the last couple of hours were the shackles removed; he was then invited to eat some dinner with his guards. He could not eat. He recalls that he had plenty of time to remember stories he had heard from his parents in the 1980’s about abuse in Syrian prisons. He was terribly frightened, and assumed that he would face torture.

Mr. Arar arrived in Jordan in the middle of the night. While being transported to a detention centre, his Jordanian guards apparently hit him repeatedly on the back of the head. Mr. Arar was blindfolded. He had not slept since he left New York. He was brought into a room and his blindfold was taken off. He was asked some routine questions and then blindfolded again and taken to a cell. He could not sleep for fear. The next morning he was taken to a doctor who asked if he had any chronic diseases or conditions. Then he was taken to an interrogation room and asked more routine questions before being told what he already knew: “You are clear you are going to Syria”.

That same day he was bundled into a car or van. Being blindfolded again, he was not sure exactly what was happening. He was told by one guard that he was going back to Montreal, and he was desperate to believe him. Instead, he was transferred twice into other vehicles. He was driven fast over bad roads; from time-to-time, he was struck by one of his guards.

At around 5:00 pm that same day, he was taken into a building and his blindfold removed. He saw pictures of Presidents Assad, father and son. Some of his luggage that had been given back to him in Jordan after the plane ride was searched and gifts for his family – chocolates and perfume – were stolen. Later, Mr. Arar learned that he was in the Far Falestin detention centre. He had arrived exhausted, hungry and terrified. He ventured to me that he was so frightened at that moment that if he could have figured out some way to kill himself he would have done it.

I must pause at this point to offer some impressions of Mr. Arar, gleaned from our extended conversations and from the way he tells his story. The impressions are relevant to my assessment of his credibility and, even more, to my later evaluation of the effects of his experiences upon Mr. Arar and his family. Mr. Arar strikes me as a person with what one might describe as moral courage. By that I mean that he is willing to take risks when he feels that he must make a point or to vindicate a belief. However, he does not seem to be particularly physically courageous. He is not “tough”; the prospect of physical pain frightens him a lot. When frightened, he loses composure. On many occasions he told me that a particular circumstance had caused him to break into tears. This observation is not a criticism. Far from it. There are few people in our era in Canada who must ever test their own physical courage. I cannot imagine how I would react if threatened with the prospect of torture or if confronted with its reality. My point is only that when one considers Mr. Arar’s situation as he entered Far Falestin, it is relevant to note that his fear seems already to have been intense and his resources to cope with violence limited.

Later on the same day he arrived at Far Falestin, Mr. Arar was taken for questioning from around 8:00 pm to midnight. He was questioned by a man named “George”, who Mr. Arar later discovered was George Salloum, the head of interrogation at Far Falestin, who also interrogated Mr. Almalki, but in his case, only later in the period of detention. Two other interrogators were taking notes while George asked the questions, which were mostly about Mr. Arar’s family. George said he knew one of Mr. Arar’s brothers, but this later turned out to be a lie. Mr. Arar said that he was already crying and “destroyed” during this interview. He had already decided to “say anything” necessary to avoid torture. It should be recalled that the other men I interviewed who had been in Far Falestin each made the same point, reflected as well in the extensive experience of Professor Ofshe: telling interrogators what they seemed to want to hear was simply a way to avoid physical abuse. Alternatively, in Dr. Payne’s framework, saying what interrogators want to hear is simply a giving up of control, including control over the truth about oneself. There was in fact no physical violence during this interrogation, but there were ominous threats. If Mr. Arar was slow to answer, George said that he would use “the chair” which Mr. Arar did not understand, but assumed to be a form of torture.

After receiving some bread and potatoes to eat, Mr. Arar was taken downstairs to the basement. He was shown to the end of a hall and turned right and pushed through an open door. His reaction was one of shock, as he found himself in a tiny cell, roughly seven feet high by six feet long by three feet wide. The dimensions, though expressed in feet, rather than centimetres, correspond closely to the descriptions of Messrs. Almalki and ELMaati. So do other details. Mr. Arar mentioned that the cell contained only two thin blankets and a “humidity isolator” as well as two bottles, “one for water and one for pee”. He also described an opening in the middle of the ceiling, roughly one foot by two feet. There was no light in the cell at all, except what filtered through from the opening in the ceiling. He recalled two or three times when cats peed

through that opening. He later discovered rats in the building, seeing them in the bathroom. He found rats “scary” and began to stuff some Chinese-made shoes that he had been given in New York under the cell door to prevent rats from slithering in. The cell was damp and very cold in winter and stifling in summer. Mr. Arar was known to guards only by his cell number: Two.

Mr. Arar’s description of the bathroom routine also matches the detail offered by Mr. Almalki. Each prisoner was called to the bathroom three times a day, usually before the serving of meals. The guards would randomly start at different cells and would stand by the toilet. Each prisoner was given two or three minutes. One guard, with whom Mr. Arar had a slightly better relationship, would allow a little extra time in the bathroom. As other prisoners remembered, the bathroom routine was excruciating when one had diarrhea. Mr. Arar was relatively lucky in that he had been able to bring in two tins that had been filled with Tunisian sweets. He used these tins when necessary and cleaned them in the bathroom. On Friday, fifteen minutes was allowed for washing before prayers.

On the day after he was brought to Far Falestin, October 9, 2002, Mr. Arar was even more exhausted, as he could not sleep in the horrible cell. He was called up for interrogation. When George arrived, he immediately started hitting Mr. Arar. The chair on which Mr. Arar was sitting was taken away, so that he was now on the floor. Being put on the floor is a pattern repeated by the other men I interviewed. They interpreted it as a form of humiliation – lowering the status of the detainee in respect of the interrogators.

George brought with him into the room a black cable, which might have been a shredded electrical cable. It was about two feet long. It was probably made of rubber, but was not hollow. Mr. Arar says that as soon as he saw the cable he started to cry. George told Mr. Arar to open his right hand. George then raised the cable high and brought it down hard. Mr. Arar remembers the moment vividly. He says that he felt like a bad Syrian school boy. He stood up and started jumping, but was forced back down and the process was repeated with his left hand. Again Mr. Arar jumped up. No question had yet been asked. This technique seems to parallel the sudden slap used on Mr. Almalki, which snapped him into another world. Mr. Arar’s reaction was the same. He really began to fear what was coming.

From then on, Mr. Arar was forced to stand near the door, and the questions began. The constant theme was “you are a liar”. He was given breaks and put in another room where he could hear other people screaming. Sometimes he was blindfolded and left to stand in the hallway for an hour or more. The screaming continued. It is notable that the only time Mr. Arar completely broke down while I was interviewing him was when he described the screams of women being beaten and the cries of the babies that some of the women had with them in the detention centre. Mr. Arar was made “very fearful” hearing any screams. When he was brought back into the interrogation room, he would be beaten about the upper body and asked more questions. Mostly, he was asked about his relations with various people. On the second day in Far Falestin, the interrogation lasted for roughly ten hours.

Day three, October 11, 2002, was the most “intensive” for Mr. Arar. He was questioned for sixteen to eighteen hours, with great physical and psychological abuse. The questions focussed in part on Mr. Almalki. Mr. Arar was beaten with the black cable on numerous occasions

throughout the day, and threatened with electric shocks, “the chair” and “the tire”. The pattern was for Mr. Arar to receive three or four lashes with the cable, then to be questioned, and then for the beating to begin again. After a while, he became so weak that he was disoriented. He remembers being asked if he had trained in Afghanistan. By this time, he was so afraid and in so much pain that he replied: “if you want me to say so”. He was asked which border he crossed and whether he had seen Mr. Almalki in Afghanistan. Mr. Arar remembers urinating on himself twice during this questioning. He had to wear the same clothes for the next two and a half months. He was “humiliated”.

The questions continued to be focussed upon relationships with various people, his family, his bank accounts, and his salary. Mr. Arar remembers with some bemusement that the interrogators could not understand what he did for a living; the concept of “services” in the IT business did not ring true to them. Nor did his salary which they thought was impossibly high. He was beaten for all these “lies”.

After these beatings on day three, the interrogation became less intense physically. There was much less use of the cables, and more punching and hitting. On the 16<sup>th</sup> or 17<sup>th</sup> day of October, even this beating diminished. But the threats intensified, so that the psychological pressure was extreme. For example, in the second week of detention he was put in “the tire” but, unlike Mr. Almalki, was not beaten. But the threat was real. The “chair” was also invoked to scare him. At the end of each interrogation session an interrogator would say “tomorrow will be tough” or “tomorrow will be worse for you”. Mr. Arar found it almost impossible to sleep for more than two or three hours a night.

Mr. Arar describes a similar reaction to that of Mr. Almalki. Over time, as the beatings became less intense, it was the daily horror of living in the tiny, dark and damp cell all alone and with no reading material (except later, the Koran) that came to be the most disturbing aspect of the detention. Whereas at first the cell was a refuge from the infliction of physical pain, later it became a “torture” in its own right. Mr. Arar describes nights alone in his cell where he could not sleep on the cold concrete floor. He had to turn every fifteen minutes or so. He was constantly thinking of his family, and worried about their finances and their safety. He was “bombarded by memories”. He remained in this cell for ten months and ten days, and saw almost no sunlight except for when he was transferred for consular visits. His first visit to the courtyard of the prison did not take place until April 2003. Mr. Arar describes the cell as “a grave” and as a “slow death”. He remembers that by June or July of 2003, he had reached his limit. He had tried to keep in shape by doing push ups and pacing in his cell, but he was losing all hope, and he stopped his modest exercise regime.

On at least two occasions in his cell he completely lost control, and began to scream and to bang his head against the wall. He felt “dizzy and tired and breathless” and his heart started beating wildly. Each time, a guard came and let him wash his face. He was not punished, which surprised him. Over time, Mr. Arar also found himself becoming, as he described it, “more selfish”. Whereas at first his thoughts were mostly about his family, after a few months in detention he cared only about his daily survival. This is a source of guilt even today.

One of his interrogators, “Khalid”, had not seen Mr. Arar for a few months. When he saw Mr. Arar in July 2003, Khalid said that Mr. Arar’s wife would divorce him if she saw him as he

was now, thin, listless and crying. The consular visits with Mr. Léo Martel provided some small hope, and some connection to Mr. Arar's family, but they were also immensely "frustrating".

Mr. Arar remembered one particularly telling detail when I asked him about the walk up and down the stairs to the interrogation rooms. I simply asked whether he remembered seeing anything on the stairs. For some time, he could not recollect anything in particular, but then remembered the presence of a bucket with water on the stairs and what seemed like rubber shoes. It seems likely that this was the same bucket that Mr. Almalki remembered holding rubber blindfolds. Mr. Arar never took anything out of the bucket, unlike Mr. Almalki, but on one occasion when he was mistaken for another prisoner, Mr. Arar was asked to carry the bucket. That is why he remembered it on the stairs.

On August 20, 2003, Mr. Arar was transferred to Sednaya Prison, where conditions were "like heaven" compared to those in Far Falestin. He was released from custody on October 5, 2003, after signing a "confession" given to him in court by a Syrian prosecutor.

I conclude that the treatment of Mr. Arar in Far Falestin constituted torture as understood in international law. The interrogation techniques used on Mr. Arar, especially in the first three days but also sporadically in the first two weeks of his detention amounted to torture. The use of the black cable in particular, and the generalized beatings he endured, could only have been "intentional". They were meant to inflict severe pain and suffering. The pain was clearly physical. But in addition, the techniques of humiliation and the creation of intense fear were forms of psychological torture. This is particularly true of the strategy of blindfolding Mr. Arar and making him wait for the next interrogation session in a corridor or room where he could hear the screams of other victims. The threats to use other forms of physical torture, such as the tire and the chair, also amounted to psychological torture. This was particularly the case for a man like Mr. Arar who so clearly feared physical violence. The infliction of pain and suffering was for a purpose considered relevant by international law: the extraction of a confession. As it happens, Mr. Arar did succumb to the pain and suffering he experienced, and he did "confess". But even if he had not done so, the purpose of the interrogation techniques would have been the same. For the purposes of determining if torture occurred, it does not matter whether or not the confession was "true". Finally, there is no doubt that the perpetrators of the torture were Syrian public officials. Far Falestin is known to be run by Syrian military intelligence.

Mr. Arar also experienced a second form of torture, created by the appalling conditions of his detention. In his testimony, recall that Dr. Peter Burns suggested that the conditions of the cell in which Mr. Arar were held might constitute torture as understood by the Committee Against Torture:

Assuming that that was established, and assuming the medical evidence supported it, I would regard it as torture, again subject to the purposive aspect of the definition. (Burns testimony, p. 5922)

The conditions of the cell are established to my satisfaction. The descriptions offered by Mr. Arar are matched by those of Messrs. ELMaati and Almalki. The parallels amongst their respective testimony are so close as to be entirely convincing. The idea of spending months in such conditions is horrifying. It was meant to be horrifying. The pain and suffering were

terrible, especially at a psychological level. The purpose was to break down the victim so that he would confess. The conditions were created and managed by officials of the Syrian state.

As to the medical evidence, it fully supports both the physical and psychological torture during interrogation, and the torture of the cell conditions. Mr. Arar authorized me to speak with the two principal medical practitioners who have cared for him since shortly after his return to Canada, and he allowed them to share details of his medical history with me. Both expressed complete confidence in the authenticity of Mr. Arar's story.

Dr. Doug Gruner is a family physician in Ottawa with experience in post-traumatic stress disorders. He also works as an emergency room doctor in two communities outside Ottawa. Practicing for roughly a decade, he has worked in Malawi and Tanzania and was with the International Committee of the Red Cross in East Timor in 2000. In the latter context he saw people who had been tortured, and who had experienced severe physical and emotional trauma. Mr. Arar first visited Dr. Gruner in October 2003 on the advice of Amnesty International and has scheduled regular appointments since then, though they have tailed off in recent months. Dr. Gruner is also the physician for another person in a position similar to that of Mr. Arar, but the doctor was assiduous in not confounding the cases. Dr. Gruner did not answer questions if he feared that some of the information might derive not from Mr. Arar, but from the other person.

Dr. Gruner told me that the symptoms displayed by Mr. Arar, physically and psychologically, were completely consistent with the story Mr. Arar told of his confinement and torture. They were also consistent with similar stories told to Dr. Gruner by torture victims in East Timor. The details will be discussed later, in the section on the effects of Mr. Arar's experiences on him and on his family.

Dr. Marta Young holds a Ph.D. in clinical psychology and is a tenured professor at the University of Ottawa. She specializes in cross-cultural psychology and works on issues related to refugees, specifically those who have suffered from trauma and torture. Mr. Arar came to see her five days after his return from Syria on October 10, 2003, again on the recommendation of Amnesty International. He continued with a cycle of approximately 12 visits.

Dr. Young found that Mr. Arar initially presented as a case completely consistent with recent trauma. He was in what she described as an "acute post-traumatic phase". She conducted certain standard tests for post-traumatic stress and depression, and discovered that on two occasions separated by over six months Mr. Arar scored as "severely" stressed and "moderately to severely" depressed. These assessments were confirmed by her clinical observations. Dr. Young stated that the details of the story told to her by Mr. Arar were entirely aligned with the public chronology of what he said had happened to him, and she emphasized that he began to tell her his story very soon after arriving back in Canada. She discerned "no sense of exaggeration or malingering". Indeed, her observations convinced her that Mr. Arar is "a straight, honest person". As she put it: "he is not making things up". The story is simply too congruent with her own experience and with the literature on torture victims for that to be at all likely.

In short, the medical reports are consistent with Mr. Arar's testimony which is confirmed by published reports of patterns of torture in Syria and with the testimony of the three other men I interviewed who had experienced detention and interrogation in Far Falestin. I find that Mr. Arar was tortured in Syria.

## **Effects of Torture**

### **Physical effects**

Fortunately, the purely physical effects of the torture suffered by Mr. Arar have mostly proven to be short-lived. Dr. Gruner reports that when he first examined Mr. Arar there were few physical signs of torture. This is consistent with Mr. Arar's story that the physical force applied against him took place in the earliest days of his detention. By the time Dr. Gruner saw Mr. Arar, the latter had been spared from torture as a part of interrogation for many months. What is more, Mr. Arar told me that during his detention in Sednaya Prison he had been able to "regain his physical shape". He had been able to eat better and to exercise.

However, Mr. Arar did have significant physical complaints initially upon his return to Canada and over the next three to four months. In particular he complained of hip pain, which was likely associated with sleeping in cramped and damp quarters on a hard floor for over 10 months. Mr. Arar also complained of pain around his face, head, neck, shoulders, and lower back. As Dr. Gruner emphasised: "Pain is a difficult thing to pin down. There might not be a lot of objective findings, yet [it is] still there". In any event, the initial pain has now "resolved definitively" except that recently Mr. Arar has developed new pain at the top of his two shoulders which hurt with the lightest pressure. In addition, some of the psychological issues that I will describe shortly have real physical consequences. For example, teeth grinding caused by stress contributed to facial pain. Continuing bad dreams disrupt Mr. Arar's sleep to this day.

### **Psychological effects**

Psychologically, Mr. Arar's experiences in Syria have been devastating, though it must also be said that some of his most difficult psychological challenges arise from his experiences since his return to Canada. Yet even these experiences can be connected to the Syrian events in that the detention and torture there has caused many of the events in Canada to take place, notably the Commission of Inquiry.

Mr. Arar told me that when he was flying home to Canada he was in a "fragile" state. He did not know who to trust. Dr. Young testified that this lack of trust is a classic symptom of post-traumatic stress when it is caused by human intervention, what she called "interpersonal trauma", rather than by a natural occurrence. Every person who has dealt closely with Mr. Arar since his return emphasised that he is still distrustful. Dr. Monia Mazigh, Mr. Arar's wife, said that it took him many months to trust anyone apart from her and a few close advisors that she told him he should trust because of their past work on his behalf.

The distrust is based on continuing fear. Mr. Arar cannot yet contemplate travel by air, even within Canada. He is afraid that the plane might be diverted to the United States, that he might be

seized and that the ordeal could begin again. He is afraid that he will not be able to resume any “normal” life. He is afraid that his story will not be believed.

This fear and distrust have actually been compounded by his experience of the Commission of Inquiry. He was particularly disturbed by certain “leaks” from sources allegedly inside the Canadian Government that cast him in a negative light. These events compounded his sense of injustice dating from his detention and torture in Syria. All his advisers that I interviewed emphasised that Mr. Arar was “devastated” by these leaks. Some described him as “hysterical”. He simply could not control his emotions, and it took many hours of constant conversation to calm him down each time new information surfaced in the press that he thought to be misleading and unfair.

Dr. Gruner described how Mr. Arar would tire easily. Whereas before the Syrian detention, Mr. Arar was described by his wife as an energetic, even driven, person now he found it hard to stay focussed on anything. He would feel overwhelmed if he had more than two meetings in a day. At other times, his lethargy would break into an unpredictable rage.

One of the most difficult psychological effects of the detention was that Mr. Arar kept sensing that bugs were crawling over his body, and particularly around his genitals. He thought that the bugs were real, but they turned out to be psychological creations. In Dr. Gruner’s experience, such thoughts are not unusual for people who have lived for a long time in completely unsanitary conditions of detention.

I have already mentioned that Dr. Young’s observations confirmed testing that showed that Mr. Arar was suffering from acute post-traumatic stress disorder and moderate to severe depression. In her dealings with Mr. Arar, she found him to be a person who likely was “highly functioning psychologically” before the trauma in Syria. She believed that he must have had a “good core sense of self” to emerge as he has. However, she noted that for some months he was “scattered”, with a relatively weak attention span, and difficulty staying on topic.

Dr. Mazigh stressed that the man she had married was very focused. He had strong “family values”, and an easygoing nature. Mr. Arar was religiously observant, which was important to Dr. Mazigh. He did not tend to argue and he could reach compromises. He was also “patient” and “flexible” with her as a woman who wanted to work outside the home. She described him as an optimistic person who believed that he could work hard and make a good life for his family. Dr. Mazigh believes that Mr. Arar always had a strong sense of duty towards his immediate family. In his religion and culture, as she put it, “a man should work and feed his children and wife”. But she sensed that this attitude was not about power, but about a man’s duty to protect his family. Mr. Arar was apparently very caring to their daughter born in 1997 and was “a patient father”. When his son was born in 2002, he turned out to be colicky. Mr. Arar would take the baby for car rides to try to settle him. Of course, Mr. Arar was absent for much of the boy’s second year of life.

Dr. Mazigh met Mr. Arar at the airport in Montreal upon his return from Syria. She was shocked to discover a man who was submissive, without any light in his eyes. As she put it, he “looked like a dog” and he seemed “lost”. He was preoccupied with his safety and was completely distrustful. Over the next few days, as the family spent time together in Montreal, Mr. Arar

began to tell his story. He was completely disjointed, with random memories and continuous crying. He could not eat or sleep for two or three days.

Dr. Mazigh reported that for many weeks Mr. Arar seemed “confused”. He would pace back and forth, as if still in his cell, as he talked to his wife. He was always tired. He told Dr. Mazigh that he just wanted “a normal life”, a phrase he repeated to me on several occasions. Normalcy meant no conflict. Mr. Arar told his wife: “I am not going to argue with you at all”. She thought that he hoped to be “an ideal person”.

Instead, over the next few months, Mr. Arar continued to have nightmares, especially about “George”. He was continually afraid and fragile. He was often suspicious and believed that he was being watched. [I do not imply necessarily that he was not being watched]. His memory has been far weaker than before his time in Syria. He felt so overwhelmed that he forgot to pay bills, and he often lost his keys. He still complains often of headaches and of the “stress” that he feels.

A particularly telling indication of the psychological trauma still facing Mr. Arar is that he has found it very hard to read the Koran since returning to Canada. He read the Koran every day in Far Falestin, as soon as the holy book was provided to him. He has been a devout and observant Muslim at least since his student days at McGill. Dr. Gruner emphasized how often Mr. Arar had spoken about this problem of not reading the Koran. Mr. Arar is not sure why he has faced this difficulty.

### **Family and community effects**

Mr. Arar told me that he feels guilty about how he now relates to his own family. He often feels emotionally distant and preoccupied with his own concerns. He is impatient with the children, and finds that he cannot spend time with them on their terms. He often takes phone calls when he is supposed to be with the children in the park, for example. His daughter gets angry when this happens. Although both children seem to be functioning well, Mr. Arar thinks that they must feel his distance.

Dr. Mazigh certainly senses this distance. She also noted that Mr. Arar defers to her on almost all decisions. That aspect of their relationship has become “awkward”, to employ the word chosen by Dr. Mazigh. Mr. Arar seems to need his wife to be strong and in control, while he feels weak and disoriented. But at the same time, he is not comfortable with his position of dependence.

Although both spouses were circumspect on the question, I could sense that Mr. Arar’s focus on the Commission of Inquiry and upon his concerns over “security” issues generally have become a significant source of tension. Other close observers told me that Mr. Arar was “fixated” and “obsessed” with having his story told, with the proceedings of the Commission of Inquiry, and with the fate of other people in detention. Dr. Mazigh mentioned that when the Commission of Inquiry was not sitting, Mr. Arar was calmer than when it was in session. A friend of Mr. Arar’s told me that even on a family hike in the Gatineau Hills near Ottawa the only thing Mr. Arar could talk about was the Inquiry.

Since his return, Mr. Arar has had a difficult relationship with the Muslim community in Canada. Dr. Young noted that socially isolating behaviour is common for victims of torture. This may relate to feelings of distrust. Mr. Arar stopped going to the mosque that he had previously attended. He told me that he is disappointed with the reaction of many Muslims to him and his story. Whereas other Canadians sometimes come up to him on the street to share a sense of solidarity, most Muslims stay far away from him. Mr. Arar thought that this distancing was exacerbated after the press “leaks” mentioned previously. He feared that many Muslims “do not understand the principle of justice” and the need for its constant defence. Although many members of the Muslim community had helped Dr. Mazigh during the period of Mr. Arar’s detention in Syria, he had received little help since returning to Canada. Mr. Arar’s sense of isolation from the Muslim community was emphasized by other close observers that I interviewed

### **Economic effects**

Although the psychological effects of Mr. Arar’s detention and torture in Syria have been serious, the economic effects have been close to catastrophic, at least from the perspective of a middle class engineer who has had to rely on social assistance to feed, clothe and house his family. Every person I interviewed who knows Mr. Arar well stressed that his inability to find a job since returning to Canada has had a devastating effect upon both his psychological state and his family finances.

Mr. Arar told me that his lack of employment was “destroying” him. Dr. Mazigh noted that it was a source of tension between her and her husband. She was encouraging him to look as widely as possible for any job, whereas he was still fixed upon finding a job in his field, computer engineering. Dr. Young believed that Mr. Arar’s employment status was one of the “most distressing” aspects of his current situation. Failing to find a job has also encouraged Mr. Arar’s sense of estrangement from the Muslim community: it is the most concrete example of a failure to help him when he needed help. Mr. Arar has sent out hundreds of email inquiries and letters, and has had few responses. When he has been able to speak directly with prospective employers, some of his advisors told me that he has been dealt with abruptly and coldly. In various contacts it has been made abundantly clear that he is not hireable because of his negative notoriety.

To put Mr. Arar’s inability to find a job in proper context, it is important to note that Mr. Arar seems to find much of his self-worth through his work. He is the most educated member of his family, the youngest child of a mother who pushed him to succeed in his studies. He is immensely proud of his engineering credentials, and has a strong self image as a successful and highly competent professional. He was pleased to be asked to travel for his work. As he described his past work experience and his commitment to various projects, a picture emerged of a man who might even be described as a workaholic. Mr. Arar took a job in Boston while leaving his wife behind in Canada with their first child while she completed her Ph.D. He did so because he was ambitious and thought that this was the best job on offer at the time, with the best prospects for the future. Mr. Arar cared deeply about his earning potential.

In the light of subsequent events, it is ironic that Mr. Arar seemed to harbour strongly positive feelings about American business culture. He told me, and this was confirmed by other

observers, that he found American business people more professional, more competent and more committed than most Canadians he had dealt with. He seemed to believe that his future would lie in business contacts in the United States. He returned to Canada from the United States hoping to remain a consultant for his American employer. Boston was exciting professionally, but too expensive. He wanted to re-unite his family in the safe and relatively inexpensive environment of Ottawa where the family's standard of living would be best protected.

That dream has collapsed utterly. The most recent information available to me is that Mr. Arar has finally been offered a small part time position as a computer advisor in his daughter's school. This is small comfort for a man who prided himself on his growing earning capacity.

### **Conclusion and Summary of Findings**

I conclude that Mr. Maher Arar was subjected to torture in Syria. The effects of that experience, and of consequent events and experiences in Canada, have been profoundly negative for Mr. Arar and his family. Although there have been few lasting physical effects, Mr. Arar's psychological state was seriously damaged and he remains fragile. His relationships with members of his immediate family have been significantly impaired. Economically, the family has been devastated.

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**INTERVIEWS**

Abdullah Almalki

Maher Arar

Ahmad Abou-ELMaati

Doug Gruner

Monia Mazigh

Alex Neve

Muayyed Nureddin

Kerry Pither

Riad Saloojee

Marta Young