



November 17, 2003

The Honorable Colin L. Powell  
Secretary of State  
U.S. Department of State  
2201 C Street, NW  
Washington, DC 20520



Dear Secretary Powell:

We are writing to you to express our deep concern over the reported role of United States officials in transferring a Canadian citizen, Maher Arar, to Jordan with the understanding that he would then be turned over to Syria. Mr. Arar alleges that he was brutally tortured by Syrian authorities over a period of 10 months. As you may be aware, these allegations are contained in a front-page story on November 5, 2003 in the Washington Post. Mr. Arar claims that he strenuously protested being handed over to Syria and expressed the strong fear that he would be tortured there. We urge you to investigate his allegations, to report publicly on your findings, and to hold accountable any US officials who may have violated US law and human rights commitments in his case.



On June 26<sup>th</sup> in a statement commemorating UN Torture Victims Recognition Day, President Bush pledged that the United States is leading the fight against torture by example. He called upon all governments to join the United States in “prohibiting, investigating, and prosecuting all acts of torture....” These statements reinforced the even more specific assurances you provided to the Senate Foreign Relations Committee on February 6, 2003 in which you said “[i]n any cases where the United States transfers detainees to other countries for detention we seek and receive assurances that detainees will not be tortured.”

Similar assurances have been provided by Department of Defense General Counsel William J. Haynes in a letter to Senator Leahy on June 25, 2003 stating that “United States policy is to obtain specific assurances from the receiving country that it will not torture the individual being transferred to that country. We can assure you that the United States would take steps to investigate credible allegations of torture and take appropriate action if there were reason to believe that those assurances were not being honored.”



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Human Rights

Independent of these pledges, the United States has obligations under both the Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment and US law to refrain from sending any



Reply c/o: Stephen Rickard, Coordinator

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individual to a country where there are substantial grounds for believing that he would be in danger of being tortured. The United States has long protested the use of torture in Syria. Indeed, in the President's November 6<sup>th</sup> speech to the National Endowment for Democracy he specifically mentioned the problem of torture there.

We urge the Administration to make good on these pledges and comply with its legal obligations by swiftly and thoroughly investigating this case and taking appropriate action against those responsible if the allegations prove correct. If Mr. Arar was in fact treated in the way he describes, it raises very serious questions over whether US officials have violated United States legal obligations and the President's pledges. In addition, either US officials failed to obtain the "appropriate assurances" discussed by General Counsel Haynes, or the Governments of Jordan and Syria violated those assurances.

There are many aspects of Mr. Arar's report that are troubling. First, of course, is the allegation that US authorities actively participated in sending an individual to a country known to use torture when interrogating prisoners despite his fear that there was a substantial likelihood that he would be tortured. This report is similar to earlier reports that US officials participated in the transfer to Syria of a prisoner seized in Morocco. In this case, however, the individual was allegedly detained in the United States and then transported by US officials. It is not clear that even receiving assurances of proper treatment from a government like Syria that has a well-documented record of torturing prisoners would satisfy US obligations.

Second, it is not clear what legal basis exists for "rendering" an individual to another government in general or in this specific case. Mr. Arar is allegedly a Canadian citizen and resides there. He was reportedly traveling from Tunisia to Canada by way of New York City when US officials detained him and held him for two weeks before flying him out of the country. There is no allegation that he has been charged with or is being sought by any government for having committed a crime. Thus, it does not appear that he was extradited, removed or deported under any of those applicable statutory provisions in US law. In the absence of an express statutory authorization, US officials are not authorized to seize, detain, transport and surrender an individual to a foreign state.

Third, the Washington Post article quotes anonymous Bush Administration officials who appear to contradict the Administration's public statements concerning the abuse and rendition of prisoners. In this instance, anonymous officials claim that the United States has engaged in "a lot of rendition activities" and that one of the reasons for these renditions is the desire to place suspects "in other hands because they have different standards...." While we appreciate the Administration's repeated public assurances that suspects are not being transferred to other countries so that they will be abused in order to extract information from them, we continue to be troubled by the statements of unnamed officials contradicting these public statements. The repeated claims of unnamed Bush Administration officials involved in actual cases raise serious questions about whether the President's policy against torture is being violated in practice. Those concerns are bolstered by the comments of former US intelligence officials, such as Vincent Cannistraro and Robert Baer, who have said publicly that they believe that transferred suspects are being tortured.

We call on the Administration to undertake a swift and thorough investigation into Mr. Arar's case and to make public the results of that investigation. We also urge the Administration to investigate and publicly respond to the repeated public claims of past and present intelligence officers that the United States is participating in many prisoner transfers and that transferred prisoners are known to be tortured. Finally, we urge the Administration to end the practice of transferring persons to countries where it cannot effectively assure that they will be free from torture or other mistreatment. We look forward to hearing from you concerning this matter.

Sincerely,



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Amnesty International USA

Doug Johnson  
The Center for Victims of Torture



Ken Roth  
Human Rights Watch



Gay McDougall  
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