



## **From Deportation to Apology: The Case of Maher Arar and the Canadian State**

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Yasmeen Abu-Laban and Nisha Nath

*On behalf of the Government of Canada, I wish to apologize to you, Monia Mazigh and your family for any role Canadian officials may have played in the terrible ordeal that all of you experienced in 2002 and 2003.*

*Although these events occurred under the last government, please rest assured that this government will do everything in its power to ensure that the issues raised by Commissioner O'Connor are addressed.*

*I trust that, having arrived at a negotiated settlement, we have ensured that fair compensation will be paid to you and your family. I sincerely hope that these words and actions will assist you and your family in your efforts to begin a new and hopeful chapter in your lives.*

Prime Minister Stephen Harper  
January 26, 2007

The case of Maher Arar, a dual Canadian and Syrian citizen, has captured considerable public attention in Canada and elsewhere. While traveling through the United States on his Canadian passport in 2002, American authorities detained and accused Arar of being a member of al Qaeda, and then deported him to Jordan. Arar was ultimately sent to Syria, where he was imprisoned for a year, and subjected to torture. Facing mounting public pressure, the Canadian government pressed for his return, which was granted in 2003, and eventually established a fact finding commission to also assess whether and how Canadian officials were culpable. As a result of this commission — which reported in 2006— Arar was cleared of any wrongdoing. Moreover, in 2007 Canadian Prime Minister Stephen Harper issued an apology for any role Canadian officials may have played in this extraordinary rendition, as well as 10.5 million dollars in compensation to help Arar and his family begin “a new and hopeful chapter.”

In light of extensive media coverage of this case, its broad outlines are familiar to most Canadians, and even many non-Canadians. However, as yet there has been limited scholarly and theoretical attention to the Arar case. Utilizing primary sources (particularly government documents and print media accounts) we examine the statements of Canadian and American public officials between 2002 to 2007 to reconstruct how “the story of Arar” - from his deportation to the apology - has been mapped in multiple contradictory ways. The dominant Canadian narrative posits Arar’s case as a simple tale of guilt versus innocence, in which the federal government’s commission ultimately determined that an innocent man was wrongfully accused. Yet, through a more critical reading of the statements made by public officials, we identify two other dualisms lurking below and working in tandem with that of guilt/innocence. The first dualism spins around Arar’s status as a Syrian citizen (‘foreigner’) and his status as a Canadian citizen and full member of Canada’s immigrant-receiving and multicultural polity. The second dualism spins around a tension between the force of law (where coercive power allows that anything is possible) and the rule of law (where the Canadian government’s commitment to human rights both nationally and domestically limits the force, or at least legitimacy, of repression).

Our particular interest in retracing the Arar case relates to what it may tell us about the contemporary Canadian state and its commitments to human rights norms and multiculturalism. By contextualizing the literature dealing with foreign policy and multiculturalism within select state-centred critical literatures, we seek to bridge and deepen domestic and global levels of analyses, as well as liberal and critical analyses in order to reconstruct a more complex and nuanced recounting and analysis of Arar’s story.

We argue the inherent tensions marking “the story of Arar” are of tremendous theoretical significance for understanding the contemporary Canadian state as one in which multiculturalism and liberalism *co-exist* with structural violence in the form of racialization and exception.

In making this argument, we take a fivefold approach. First, we overview the literature dealing with multiculturalism, as well as more critical literature on the state which draws attention to the state and racism, as well as the state and illiberal exceptions. Second, we retrace the story of Arar by highlighting two important timelines: from his deportation and imprisonment in Syria to the return to Canada; and the period following his return up until the apology issued by Prime Minister Stephen Harper in January 2007. Third we analyze the (dual) citizen dualism across both of these time lines, followed in the fourth section by a consideration of the force of law/rule of law dualism. The paper concludes with a discussion of the implications of explicitly acknowledging structural violence both for our theoretical understanding of the state, as well as for a human rights and human security agenda.

### **Theorizing Structural Violence in a Multicultural Liberal State**

Canada’s commitment to human rights has been an important outgrowth of the post-World War Two era (Ignatieff 2000; Kymlicka, 2007) and may be seen to be reflected in both its foreign policy (human security) as well as its domestic policy (multiculturalism). In fact, one might suggest that these two policies occupy a dominant position in Canadian political discourse and in Canadian ‘national’ self-conceptions. In this section we situate these two policies within a broader theoretical framework that explicitly considers structural violence and the state.

### ***Human Rights as Foreign and Domestic Policy: The Challenges***

Canada's foreign policy has been critically important not only in shaping Canada's interactions on the global stage, but also Canadian national identity. In particular, owing to Canada's relatively strong emergence in the immediate post-World War Two period, Canada has consistently pursued a twin-foreign policy track of expanding bilateral relations with the United States, and increasing multilateral relations through work in international organizations (Macdonald, 2004; Keating 2002). During the Cold War, this positioning was aided by a strong national consensus around pursuing a doctrine of "middle power" internationalism (Macdonald, 2004: 292-293) which came to emphasize values of peacekeeping, human rights and democracy.

As a result of the 1988 Canada-United States Free Trade Agreement and the 1994 North American Free Trade Agreement, the Canadian economy has become more tightly linked with the American one (Abu-Laban, Jhappan and Rocher, 2008). At the same time, over the post-Cold War period Canada also began to pursue a strategy emphasizing human security. The human security emphasis was especially strong during the years in which Liberal Lloyd Axworthy was Minister of Foreign Affairs in Canada (1996-2000). According to Axworthy, human security "puts people first and recognizes that their safety is integral to the promotion and maintenance of international peace and security" (Axworthy, 2001: 20). From Axworthy's understanding, "the security of states is essential but not sufficient to ensuring the safety and well-being of the world's peoples" (2001: 20). Of course, human security, while promoted by Canada in a particular period of norm entrepreneurship (Knight, 2001), is not a specifically Canadian invention. As Irwin notes, in its emphasis on respecting the equal moral worth of all people, human

security is firmly entrenched in the Western liberal tradition of cosmopolitan ethics (Irwin, 2001: 5). This tradition also finds echoes in the United Nations Development Program *Human Development Report* of 1994, the United Nations Charter and Universal Declaration of Human Rights (Irwin, 2001: 5 ) and even in the work of organizations like the Red Cross dating back to the nineteenth century (McRae, 2001: 16).

Human security is not without limitations and weaknesses. For example, the priorities emphasised in this framework (human rights and individual security) may be understood as limited or ‘narrow’ given that there are other forms of security deserving of protection. As the United Nations *Human Development Report* itself stressed, economic security and food security are just two other critical areas of concern (Irwin, 2001: 6). Other trends threatening human security as pursued by Canada, or as pursued by a range of countries through multilateral institutions, include: the asymmetrical character of the ‘new world order;’ the potential of the rapid spread of conflict; and neoliberalism and neofascist movements in countries of the first and former second worlds (Nef, 2001: 28-34).

Not least, in the post-September 11 period, the U.S.-led war on terrorism has brought out new practices for circumventing human security as ‘placed’ most dramatically and overtly in Guantanamo Bay but also through rising practices of extraordinary rendition with the often hidden assistance of a host of countries (Amnesty International). To the extent that the (re)turn to torture has been advanced or condoned by countries formally committed to liberal democratic norms like the United States, or even publicly justified by elites in such countries in the name of combating terrorism (consider Harvard law professor Alan Dershowitz) , this represents a contemporary

threat to human security. We suggest that this particular form of human *insecurity* warrants explicit recognition and demands analytic attention.

Like human rights and human security, multiculturalism is also rooted in Canada's post World War Two evolution. In 1971, Canada became the first country in the world to adopt an official federal policy of multiculturalism. Constitutionally entrenched in the *Canadian Charter of Rights and Freedoms* in 1982, the official multicultural policy was made into law in the 1988 *Canadian Multiculturalism Act*. In its thirty-six year history, the articulation of, and support for official multiculturalism has not been static. Arguably peaking with the constitutional fervour of the 1980s and early 1990s, active state support for official institutionalized multiculturalism has been in a decline since the Department of Multiculturalism and Citizenship was absorbed into the Department of Heritage in 1993. There have also been shifts in the emphasis of the policy – from its corporate pluralist beginnings and a focus on “tolerance” to a flirtation with equity in the 1980s, to the past ten years which have been marked by an increasing commitment to neoliberal ideals and “civic multiculturalism” (Abu-Laban and Gabriel, 2002; Wong and Satzewich: 1).

It is a reflection of the fact that multiculturalism is so central to the contemporary Canadian imaginary that, since its inception, it has been subject to extensive and varied interpretation within the academy. While the analytic approaches have varied (from Marxist, to liberal, to postmodern) the focus has generally remained the same: how is multicultural policy or multiculturalism more broadly, able or unable to effectively navigate or ‘manage’ linguistic, cultural, ‘racial’, ethnic, and nationalist diversity within an equality-based framework? Taking a critical approach, many analysts in the 1980s

asserted that multiculturalism masked tangible or ‘real’ social and economic inequalities (Peter, 1981; Moodley, 1983), transforming class issues into ‘ethnic’ ones (Ramirez and Tascheau, 1988). Others elaborated that the policy of multiculturalism functioned to maintain the status quo by co-opting those interpellated as ‘minorities,’ though this position was subject to debate given that minorities themselves were responsible for demanding the policy and were supporters of it (Abu-Laban and Stasiulis, 1992: 368-369).

Such older debates find an echo in more contemporary debates between liberal and Foucauldian thinkers. The liberal perspective, exemplified in the work of Will Kymlicka, has been particularly privileged in the more contemporary debate surrounding multiculturalism in the Canadian and international academy. For Kymlicka (1998), multiculturalism has been and continues to be an effective model for accommodating the demands of “immigrant minorities” for inclusion. In addition, those advocating a liberal perspective have been particularly preoccupied with countering liberal detractors by demonstrating or proving that the group-based claims of multicultural discourse are in fact consistent with the values underscoring liberalism. Foucauldian-inspired genealogical analyses are illustrated in the works of Richard Day and Eva Mackey who engage in a more critical assessment, suggesting that state policies of multiculturalism are disciplinary regimes embodying the “...the modern will to rational-bureaucratic microcontrol and domination” (Day, 2000: 208). Further, Mackey argues that what really lurks behind the liberal multicultural mythology of tolerance, accommodation, and the celebration of diversity is the dominant white Anglophone Canadian culture and identity (2002: 5). Such different interpretations help in part to



explain the continuing debate about whether multiculturalism and anti-racism are even compatible (See for example Fleras, 2006).

Reflecting the subordinate funding and status of the actual policy within the federal bureaucracy, in practice, multiculturalism has been at best incremental, serving to variously celebrate and/or manage Canada's contemporary diversity as a settler-colony marked by repeated, and continuing, waves of immigration. In fact, the limits of official multiculturalism can be seen in the uneven state response concerning redressing historic instances of group harm (and human insecurity) that predate the institutionalization of the policy in 1971 (see James, 1999). Within the dominant multicultural discourse, as expressed either through state policy, or liberal accounts, it is hard to "explain" Maher Arar's story as anything other than anomalous, or an exceptional (albeit embarrassing and tragic) mistake in Canada's post-1971 polity. The very dramatic questions this case could raise when actually considered alongside liberal multiculturalism may help to account for a general tendency on the part of policymakers to mainly discuss this case in relation to legal discourse/laws.

To sum then, we suggest that both dominant scholarly and policy discourses of human security and multiculturalism share similar limitations in terms of their capacity to either narrate or explain the complexities of Maher Arar's story *and* the context informing its boundaries. As noted, many discussions of human security, individual rights and more broadly the 'rights revolution' do not (and can not) fully address 'new' technologies and rationales of and for security that are in fact responsible for profound insecurity (such as practices or justifications for torture in the 'war on terror'). And, the liberal discourse of multiculturalism and Canada's official policy, as exemplified in the

ongoing debate about its relationship with antiracism, is not sufficiently sensitive to forms of racialized violence — whether historic or contemporary. We suggest that a better framework for understanding how and why the Canadian state was implicated in Arar's ordeal (and by extension the liberal multicultural state) would take structured forms of violence or, put differently, social practices of violence, explicitly into account. In short, the liberal multicultural state can not be understood apart from rights *and* from violence.

### ***Violences of Torture, Racism and Exception***

While Galtung's original framing of 'structural violence' – any constraint on human potential due to economic and political structures – has been subjected to much legitimate analysis and critique, there is great merit in theorizing structural violence or violence as a social practice as a way to capture the invisible, entrenched, normalized, regularized and ubiquitous social practices and structures that contain and constrain the lives of individuals and groups (Galtung 1969). Notions of structural violence or violence as a social practice provide us with an entry point to theorize contexts of elitism, ethnocentrism, classism, racism, sexism, heterosexism, and even colonialism. Notions of structural violence or violence as a social practice also allow us to better understand technologies and strategies of violence that may take a wide array of forms (i.e. gendered, heteronormative and racialised surveillance in the provision of welfare, or the carceral technologies of colonialism expressed in and through residential schools). Moreover, notions of structural violence or violence as a social practice allow us to contemplate through what means violence is continually enforced, imposed, asserted, sustained and legitimized. This type of analysis allows to consider not only the ways in which

citizenship itself is implicated in the reproduction of social practices and structures of violence, but also how citizenship may be an expression of them as well. In the context of Arar's case, such insight can be powerful and revealing. Indeed, as Thobani suggests, "...Arar's case was treated as problematic only because the RCMP got the 'wrong' man, not for the profound restructuring of Canadian citizenship that it pointed to" (Thobani: 246). As one means of more critically grounding the human security and multicultural literature in relation to violence, the works of Giorgio Agamben and David Theo Goldberg equip us with a more concrete way to consider the link between structural violence and the state, and specifically how the state engages in racialized violence while still maintaining legitimacy.

While much news coverage of Maher Arar's case suggests its beginnings stem from the 'post 9/11 order', an application of Agamben's argument in *State of Exception* (2005) suggests it would be misleading to characterise Maher Arar's detainment, his torture, the inquiry, and the apology he ultimately received as beginning and ending with 9/11. Rather, where the dominant consensus is that 9/11 is an exceptional moment authorizing exceptional state measures via the 'War on Terrorism', Agamben suggests that the discourse of exception and its concomitant strategy of 'necessity' is really part of a much longer pattern of governance emerging most vividly from World War One. Specifically, the state of exception entails a transformation of a provisional measure (the state of emergency) into a technique of governance.

The state of exception becomes a *normal* paradigm of governance based on what seems to be a *necessary* paradox between the 'force-of-law' and the rule of law, a dualism capturing one critical component of Maher Arar's story. Agamben takes this

observation one step further, suggesting that the existence of a space devoid of law is, in fact, necessary to, or constitutive of, the legal order itself. In addition, of particular importance to our discussion of Maher Arar is Agamben's notion of *homo sacer*, where a state of exception functions to delink an individual from his/her political and legal subjectivity by effacing his/her citizenship (Agamben: 3). Situated within this broader global historical trend, the positioning of Arar's story as either a legal one or an exceptional one is misleading.

The violence of racism also deserves greater theoretical consideration than afforded in much multicultural and/or human rights literature in or on Canada, because arguably the liberal multicultural state may be viewed as a particular articulation of what Goldberg terms 'the racial state'. Goldberg explains that in opposition to naturalist racial regimes which continue to see race as deeply significant, historicist regimes, in varying ways, insist upon racelessness, where the historical effects of racial domination are deemed ultimately insignificant (Goldberg: 204). Consequently, the shift to racelessness, or even a shift to a framework of ethnic pluralism in official multicultural discourses, has made it more difficult to draw any causal connection between colonial and racist legacies and contemporary racialized inequalities (Goldberg: 218). As Goldberg explains,

Racelessness is the neoliberal attempt to go beyond – without (fully) coming to terms with – racial histories and their accompanying racist inequities and iniquities; to mediate the racially classed and gendered distinctions to which those histories have given rise without reference to the racial terms of those distinctions; to transform, via the negating dialectic of denial and ignoring, racially marked social orders into racially erased ones (Goldberg: 221).

Put within this context, treating Arar's case as a mere exception speaks to a larger strategy of state legitimation.

Goldberg also explicitly addresses violence, asserting that it is "...the dispersal throughout the social of arrangements that systematically close off institutional access on the part of individuals in virtue of group membership, and...render relatively hidden the very instrumentalities that reproduce that inaccessibility" (Goldberg: 131). As such, violence also involves the refusal to acknowledge the sources of inaccessibility, "...attributing them through the forces of racial subjection to the individualized or group capacities or the relative absence of those who lack access" (Goldberg: 131).

To the extent that the Canadian state works to maintain social and economic stability, it is tenable to suggest that the state and institutions of the state operate according to an inherently homogenizing logic or rationality. As a membership organization, the state is the complex expression of the links between the rules for inclusion and exclusion, governing mentalities/ rationalities, the law, and ultimately the definitive articulations of stability – discourses of security and insecurity. As Goldberg tellingly suggests, "The modern state has a legacy of turning violence into injury, historical wrong and its memory into legal redress, reconciliation, and reparations. Those states of unspeakable historical experience are metamorphosed at the hands of states and their agents into representable conditions, manageable states of affairs and affairs of state, through their reinscription in(to) the terms of legality" (Goldberg: 251). In this sense, the state and the state of law must be read alongside, through and as informing the *exception* in its various articulations – the exemption, the omission, the exclusion, immunity and ultimately impunity. However, critically, the homogenizing logic of the state is not without contestation, particularly given the variations in state social formations, social

formation that ultimately *contain* the terms of, and possibilities in which subjects are “conceived, considered, manifested and expressed” (Goldberg: 146).

Threading Agamben and Goldberg’s analyses into our understanding of the context of Maher Arar’s case, the tensions in his story become suggestive of contradictions inherent in Canadian liberal internationalism and multiculturalism. The discourse of human rights as expressed as international commitment, and multiculturalism as expressed as national commitment requires violence (racism, rendition, torture) to be an exception. Put differently, the liberal multicultural state may be seen to legitimize itself by constructing any such illiberal expressions of authority as exceptions. It is the combination of contestation, and the space afforded by discourses relating to multiculturalism, human rights, and the rule of law that also played out in how Arar was able to secure a public apology.

### **From Deportation to Apology (September 22, 2002 – January 26, 2007)**

Mahar Arar is a Canadian citizen, born in Syria, who immigrated to Canada at the age of 17. Receiving post-secondary education in Canada, by 2002, at the age of 32, he had established himself as an Ottawa-based telecommunications engineer, husband and father of two young children. On September 26, 2002 Arar, carrying his Canadian passport, was returning to Canada via New York from a family vacation in Tunisia. He was subjected to a lengthy interrogation at New York Kennedy Airport by American officials, and kept in solitary confinement until October 3, 2002. Despite discussions with his family and a U.S. based lawyer between October 3 -5, 2002, Arar was subsequently interrogated by American officials without a lawyer present, accused by

U.S. Immigration and Naturalization Service officials of being a member of al Qa'ida, and then deported to Jordan and ultimately to Syria.

Tortured in Syria (and hence serving as an example of American practices of extraordinary rendition rather than merely 'deportation') Arar remained in Syrian prison until October 5, 2003, his release coming under considerable pressure, particularly from within Canada, from diplomats, politicians and human rights groups and a campaign by his spouse Monia Mazigh. It is beyond the scope of this paper to detail Mazigh's particular interventions, but suffice it to say it involved eloquent presentations to Canadian parliamentarians on the foreign affairs committee, frequent media interviews proclaiming her spouse's innocence, and even writing her own intervention in the commentary pages of *The Globe and Mail* (Mazigh, 2003).

Arar's return home, however, on October 6, 2003 can hardly be characterised as the end of his 375 day ordeal. Instead, it marked the beginning of what would be a very long three and a half years. Within the span of those years, Arar would be branded a terrorist, be subject to leaks to the press by Canadian officials, be named the Canadian newsmaker of the year by *Time* magazine, and then ultimately be cleared of all allegations made against him. The country would be headed by three different Prime Ministers<sup>1</sup>, Arar would see three different inquiries<sup>2</sup>, and he would be issued three sets

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<sup>1</sup> Jean Chrétien served as Prime Minister from October 25, 1993 to December 12, 2003. Paul Martin's term of office was from December 12, 2003 to February 6, 2006. The current Prime Minister, Stephen Harper, began his term February 6, 2006.

<sup>2</sup> Arar's case was examined by the Commission for Public Complaints Against the RCMP, The Security Intelligence Review Committee's investigation of the role of the Canadian Security Intelligence Service, and the public inquiry headed by Justice O'Connor.

apologies<sup>3</sup>. In the end, the apology of the Government of Canada would ultimately be delivered by one of the same people who branded him a terrorist and cautioned the previous government against seeking his release. While the apology from the Canadian government would be accompanied by a compensation package of 10.5 million dollars, an apology from the United States and Syrian governments would never come.

Prime Minister Stephen Harper's apology on behalf of the Government of Canada constituted a fundamental victory for Arar. There is no doubt, however, that the critical moment of this period was the culmination of the extremely thorough "Commission of Inquiry into the Actions of Canadian Officials in Relation to Maher Arar", led by Justice Dennis O'Connor. Called on January 28, 2004 by then Deputy Prime Minister and Minister of Public Safety and Emergency Preparedness Anne McLellan, the public inquiry was divided into two parts. In the first part, the "Factual Inquiry", the proceedings focussed on the actions of Canadian officials in relation to Arar, including his detention in the United States, his deportation to Syria via Jordan, his imprisonment and torture in Syria, his subsequent return to Canada, as well as all other circumstances deemed directly relevant by the Commissioner. The second part of the inquiry, the "Policy Review", was directed at making "recommendations...on an independent, arm's length review mechanism for the activities of the Royal Canadian Mounted Police with respect to national security." (*Terms of Reference: 2*).

The "Factual Inquiry" process was extremely thorough and comprehensive – over 70 government officials were called as witnesses, and the government produced approximately 21,500 documents, 6,500 of which were subsequently entered as exhibits

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<sup>3</sup> Arar would receive apologies from the RCMP Commissioner Giuliano Zaccardelli, the House of Commons and the Government of Canada.



(*Analysis and Recommendations*: 10). In addition to stating emphatically that "...there is nothing to indicate that Mr. Arar committed an offence or that his activities constitute a threat to the security of Canada." (*Analysis and Recommendations*: 9), Justice O'Connor found that the RCMP provided American authorities with inaccurate information in ways that did not comply with RCMP policies on screening for relevance, reliability and personal information (*Analysis and Recommendations*: 13). Moreover, the RCMP provided American authorities with information without attaching written caveats, increasing the risk that the information would be used for purposes of which the RCMP would not approve (*Analysis and Recommendations*: 13). The RCMP also had no basis for labelling Mr. Arar and spouse Dr. Mazigh "Islamic Extremist individuals suspected of being linked to the Al Qaeda terrorist movement", and it is very likely that American authorities relied on the information provided by the RCMP to make their decision to remove Arar (*Analysis and Recommendations*: 13-14). In addition, the Department of Foreign Affairs and International Trade erred in distributing a summary of a statement made by Mr. Arar while in Syrian custody given that the statement was likely a product of torture (*Analysis and Recommendations*: 15). This contributed to the further tarnishing of Mr. Arar's reputation and subsequent case, particularly given post-October 6, 2003 government reports that downplayed the mistreatment and torture of Mr. Arar, and leaks to the press by Canadian officials of confidential and inaccurate information (*Analysis and Recommendations*: 16). In addition to some of the findings listed above, the commissioner made twenty-three recommendations arising from the factual inquiry. While the "Factual Inquiry" that cleared Arar was reported on September 18, 2006, Arar

would wait over four months before he would receive his official apology from the Canadian government.

Despite the 2007 apology given by the Prime Minister of Canada, Arar still (as of October 2007) remains on a watch list in the United States. Arar's presence on the U.S. watch list suggests that even after clear official recognition in Canada that Arar was an innocent man wrongly accused, notions of "guilt" continue to haunt him. Drawing from discussions in the Canadian House of Commons and in four key Canadian and American newspapers between September 2002 and January 2007<sup>4</sup>, in this section we trace how issues of guilt and innocence were read through themes of citizenship and law. Far from progressing linearly, the ambivalences and tensions marking Arar's case demonstrate the fact that this story was about much more than simply an innocent man who was falsely accused.

### **The Citizenship Dualism**

The citizenship status of Maher Arar played out differently in the period from his deportation to homecoming to Canada, and from his return to Canada and the Harper apology. We trace both processes.

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<sup>4</sup> Utilizing the search term "maher arar" we examined all discussions in Canadian House of Commons Hansard between September 2002 and January 2007. In addition, utilizing the term "maher arar" as a headline and lead paragraph search, we pulled articles from four significant newspapers in the United States and Canada. For Canada we examined the two English language "national" newspapers *The Globe and Mail* and *The National Post*. For the United States we examined *The New York Times* and *The Washington Post*. The results yielded in the newspaper searches for both time periods were quantitatively different with the period from deportation to homecoming yielding only 35 results, and the period from homecoming to apology yielding 497 results.

### *Citizenship - Deportation to Homecoming*

From the beginning, Arar's status as a "Canadian citizen" was met with qualifications. In a total of 35 articles pulled from this period less than half (16) utilized the word "Canadian" as a noun, or the term "Canadian citizen" in the headlines referring to Arar. Alternative descriptors of choice in headlines, which distanced attribution from being a member of the Canadian citizenship community, included "terrorism suspect" (National Post, 2003), "deportee" (Cheney, 2003) and "Canadian immigrant" (DePalma, 2002). The vacillation in newspaper headlines also reflected on shifting language used to describe Arar by public officials, which in turn had much to do with the presumption of innocence versus guilt, or at least in the ability to intervene on Arar's behalf, in both Canada and the United States.

*The New York Times* reported that in discussing the deportation, American officials highlighted Arar's dual Canadian and Syrian citizenships, and moreover that well into October 2002 Canadian diplomats had not protested Arar's deportation (DePalma, 2002). The NDP, in a statement delivered to then Prime Minister Jean Chrétien on October 18, 2002, was the first to stress the idea that Arar was a "Canadian citizen" who deserved strong government action. NDP leader Alexa McDonough's statement read "I am deeply distressed by your dismissive response to the United States's illegal imprisonment, interrogation and deportation of a Canadian citizen of Arabic origin" (Cheney, 2002). McDonough was also the first to assert in question period in the House of Commons that in being "apprehended, interrogated and deported without legal counsel first to Jordan and then to Syria," both international law and Arar's "rights as a

Canadian citizen” were violated” (Canada, House of Commons, December 12, 2002: 1430). The response of then Minister of Foreign Affairs, Liberal Bill Graham, was that “consular cases are always extremely complicated” and that “the government is doing its best in the interests of Mr. Arar and his family to get him back” (Canada, House of Commons, December 12, 2002: 1430).

This exchange was repeated on different occasions. Thus for example on September 17, 2003 Alexa McDonough asked in Question Period “with no clear charges, no transparency, no Canadian ambassador [in Syria] and no government support of legal counsel, how are the rights of this Canadian citizen to be protected?” (Canada, House of Commons, September 17, 2003: 1450). The response of Bill Graham was that “Obviously this is a matter of Mr. Arar being a Syrian national as well as a Canadian national” (Canada, House of Commons, September 17, 2003: 1450). The idea that his dual citizenship drove the decisions was also reflected in the press coverage, when in October of 2002 an unnamed American official was quoted in relation to the Arar case as saying “citizenship is in the eye of the beholder” (Globe and Mail, 2002: A24).

This may help explain why in second reading discussions of proposed changes to the Citizenship of Canada Act (Bill C-18) the theme of the fragility of Canadian citizenship was stressed by the NDP (Judy Wasylycia-Leis, in Canada, House of Commons, Thursday November 7, 2002). Quoting NDP MP Dick Proctor, “Canada’s multicultural citizenship” reflects “our evolution as a society from our ethnocentric past to our multicultural present and future,” but Arar’s deportation “brought home just how fragile our citizenship rights have become in this electrically charged era that we are in.” (Canada, House of Commons, Friday November 8, 2002).

In this period, the significance of the category “Canadian citizen” therefore lies in its tendency to be the descriptor of choice for those stressing Arar’s potential innocence, right to due process of the law, and deservingness of Canada’s protection. This was clear in the representation given by former (Conservative) MP and Foreign Affairs Minister Floral Macdonald who led a delegation of human rights activists to the U.S. embassy in Ottawa in September 2003 to say “there has not been enough done to say this is a Canadian citizen who has not had the opportunity to...be charged and brought before a reasonable international court” (quoted in Fife, 2003: A8). In contrast, for those that viewed Arar as (potentially) guilty, the emphasis shifted to his dual-citizenship status. Thus for instance, former Canadian ambassador to Yugoslavia James Bisset described Arar as “also a citizen of Syria” and “a suspected al-Qaeda terrorist” (Bissett, 2003). Nonetheless, as the period of his release neared, there was a growing cross-party emphasis on Arar’s status as a “Canadian citizen.” Thus by the summer of 2003, even Canadian Alliance member Stockwell Day asserted “the government... should be vigorous and ceaseless in doing all it can to protect the right of any Canadian abroad” (quoted in Dawson, 2003).

### ***Citizenship – Homecoming to Apology***

While the period between Arar’s deportation and homecoming demonstrates a correlation between guilt/dual-citizenship and innocence/Canadian citizenship, in the period from homecoming to apology, Arar is more clearly labelled a “Canadian citizen” although this status is characterized by a certain amount of ambivalence. On the one hand, as articulated earlier, discourse around Arar shifted dramatically in that in official parliamentary debates, Arar was no longer overtly painted as a terrorist. In the

parliamentary debates in this period, Arar was invariably referred to as a “Canadian citizen”, a “Canadian”, and strikingly, rarely as a dual citizen or dual national. On the rare occasions when his dual citizenship was addressed, it was only to stress the need for treating all Canadian citizens equally. NDP MP Bev Desjarlais remarked that, “Individuals should not have to apologize if they were born somewhere else or had citizenship of another country, then came to Canada and became Canadian citizens, lived here for years and were active participants in our society.” (Canada, House of Commons, October 7, 2003: 1520). Bill Siksay, NDP, echoed these sentiments, suggesting that it is problematic that “Dual citizens see their loyalty questioned” (Canada, House of Commons, October 19, 2006: 1410).

The clear presentation of Arar as a Canadian citizen was however multifaceted to the point of ambivalence. On the one hand, the discourse stressing his ‘Canadian-ness’ functioned to legitimize his presence and concerns in public discourse by simultaneously rejecting the consequences of a focus on dual nationality that posited Arar as the Other, as somehow less Canadian, hence less legitimate and less in need of protection. In this reading, Arar as a Canadian citizen stresses the ideals of equality of citizenship. However, simultaneously at play here was that in erasing the Syrian portion of Arar’s citizenship, the focus on Arar’s ‘Canadian-ness’ also erased the particular meaning of certain identity constructions —namely ‘Arabs’ and/or ‘Muslims’— in the post-9/11 context. Put differently, Arar’s *Syrian* citizenship and *Muslim* faith are central to his having been marked as suspicious or risky. Consequently, it is not the case that what happened to Arar is likely to happen to all Canadian citizens equally (whether native born or naturalized, or whether singular, dual or multiple citizenship holders). For example,

Minister of Foreign Affairs Bill Graham remarked that the government would respect the case of Arar as it respects “the cases of all citizens” (Canada, House of Commons, October 9, 2003: 1440). Then Solicitor General Wayne Easter also extended his sympathies to “...Mr. Arar and his family for what has happened to him as an *individual*...But that happened on the United States soil and that was their decision.” (Quoted in Sallot, Oct 2003: A4 – emphasis added). Here, the understanding of Arar as a generic Canadian citizen functions to disaggregate Arar from a broader, meaningful context, ultimately compromising a discussion of structural violence. This fundamental avoidance was reflected in how the parliamentary debates seldom mentioned the case of Arar alongside the similar cases of Ahmad Abou Al Maati, Abdullah Almalki, Arwad Al-Bouchi, Muayyed Nurreddin, and Helmy Elsherief.

In very select instances, linkages were made between Arar’s case and the particularly heightened racialisation of Arab and Muslim people in the post-9/11 context. Then NDP leader Alexa McDonough remarked that “Canadians, *especially* our one million Arab and Muslim Canadians, worry that there is nothing to prevent the same thing happening to them.” (Canada, House of Commons, October 22 2003: 1445 – emphasis added). In other cases, linkages were made, but were ambivalent in the ways in which they tended to absent the Canadian state from structural violence in the contemporary period. Inky Mark, CPC, remarked that if the Arar file was not “cleaned up”, it would be a “bleak mark on Canadian civil rights.” (Canada, House of Commons, October 30 2003: 1925). Mark suggested that we need to learn from the “many bleak moments in Canadian history”, and that “There is no doubt that Mr. Arar was apprehended, not because he was a Canadian but because he was a Canadian of Arab

descent...If this can happen to Maher Arar, it can certainly happen to many other Canadians, whether they are Arab or of other ethnic descent.” (Canada, House of Commons, October 30 2003: 1925). On October 26, Mark stated again that “Canada’s reputation is at stake. Canada is known around the world as the protector of human rights.” (Canada, House of Commons, November 6 2003: 1430).

Where in the first period, the significance of the category “Canadian citizen’ lay in its tendency to be the descriptor of choice for those stressing Arar’s innocence, this linkage was not as clear in the period after his homecoming. Despite his characterization as a Canadian citizen, Arar continued to be marked as suspect by some senior government officials. For instance, in the days immediately following Arar’s 2003 return, Solicitor General Easter consistently refused to answer questions regarding if the RCMP provided information on Arar to American authorities. Instead, Easter deflected by asserting that he could not talk about RCMP operational matters in order to protect the privacy of the individuals involved as well as the integrity of investigations. Easter did not clarify whose privacy he was interested in protecting, which investigations were ongoing and who was being investigated – the inference was that Arar was subject to an ongoing investigation. In addition, four days after Arar’s return, false stories were leaked to the press. On October 10, 2003 Canadian government officials falsely stated that Arar had said he was not physically tortured (Sallot, October 10 2003: A4). Again, on October 23, senior government officials leaked the information that Arar provided under the duress of torture – the leaks did not mention the conditions under which Arar made the



faulty confession (Aubry, October 4 2003: A8).<sup>5</sup> Near the end of December 2003, Canadian and US Intelligence officials stated they were “100% sure” that Arar trained at an al Qaeda camp in Afghanistan, with one official remarking, “This guy is not a virgin” and “There is more than meets the eye here.” (Quoted in Fife, December 30, 2003: A1). Even as late as August 30, 2005, the only Canadian consular official allowed to visit Arar, Léo Martel, told the public inquiry that Arar’s civil suit against the Canadian government was a “big lie” motivated by money (Curry, September 19, 2006: A9).

Despite the references to Arar as a Canadian citizen, the ambivalence was clear when on December 21, 2003, Solicitor General Easter stated that people should be asking more questions of Arar: “Nobody has raised the question: Was Mr. Arar a resident of Canada at the time?...How come some of these questions are not being raised?” (Chase, December 22 2003: A1). This echoed another false leak by another Canadian official who stated that “[Arar’s] only connection to Canada was his mother-in-law...He had already left [Canada].” (Chase, December 22 2003: A1).

### **The Law Dualism**

Following the same time lines relating to Arar’s rendition to Syria, and subsequent return to Canada, it is notable that discussions of the rule of law and the force of law shifted as well. While initial discussions tended to stress Canada’s inability to catch lawbreakers (in contrast to the United States), to minimize focus on the force of law (in the form of torture) and in some cases to stress due process of the law (in the form of being innocent until proven guilty), the later discussions raised questions about the Canadian state’s culpability in the force of law. Such questions were, notably, ultimately

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<sup>5</sup> The leaks ultimately forced Arar to file a privacy complaint with the federal government on November 12, 2003 regarding this incriminating and false information.

answered in relation to a constrained version of the rule of law (most notably norms of evidence, with some evidence being shielded in the name of national security).

### ***Law - Deportation to Homecoming***

It is significant that the rule of law/force of law framed important discussions surrounding Arar, irrespective of whether he was deemed to be guilty or innocent. In the early days of the deportation, Stephen Harper (then Canadian Alliance) raised the question (tellingly under the title ‘terrorism’) to Deputy Liberal Prime Minister John Manley of RCMP knowledge of “Arar’s activities,” (Canada, House of Commons, November 18, 2002) followed by Alliance member Diane Ablonczy’s accusation that “it is time the Liberals told the truth: that their system of screening and security checks is pathetic. Arar was given dual Syrian and Canadian citizenship by the government. It did not pick up on his terrorist links and the U.S. had to clue it in” (Canada, House of Commons, November 18, 2002). Utilizing a phrase also picked up by Harper and repeated in the media, Ablonczy charged that “Liberals were asleep at the switch” (Canada, House of Commons, November 18, 2002; Alberts, 2002: A9). Deputy Prime Minister John Manley, implying that American security was not perfect, responded that “Mohammed Atta, the conspirator behind the September 11 destruction of the World Trade Center, received his visa from U.S. authorities six months after September 11” (Canada, House of Commons, November 18, 2002).

A similar exchange was repeated on November 19, 2002 when (again under heading ‘terrorism’) the Arar case was used by Stockwell Day to question at what point the RCMP knew about “his possible terrorist links” and to assert “there is lack of vigilance in the country on terrorism” (Canada, House of Commons, November 19,

2002). Because foreign affairs officials were purportedly unaware of FBI information linking Arar to al Qaeda (Alberts, 2002: A9), former Canadian ambassador to Yugoslavia James Bisset criticized the government for being “indifferent to terrorism” (Bissett, 2003: A14).

On the other hand, American officials, for example U.S. Secretary of State Colin Powell, were quoted for saying that security information about Arar came from Canada (Fife, 2003). In the words of U.S. Ambassador to Canada Paul Cellucci, Arar was “very well known” to Canadian police who “wouldn’t be happy to see him come back to Canada” (quoted in Knox, 2003: A19). It is interesting to note that this statement was quoted, or referred to, in a total of eight articles (close to one quarter of the newspaper articles pulled).

This information served to prompt a different set of exchanges in which the Liberal government was accused of culpability in the Arar deportation, and in which Liberals typically said it was all decided by the United States. Thus Bill Casey (Progressive Conservative) raised the question of “who transferred this Canadian citizen to Jordan and who moved him to Syria;” Liberal Aileen Carroll (Parliamentary Secretary to the Minister of Foreign Affairs) responded this was raised “at the highest level of the United States, including Secretary of State Colin Powell.” Casey also questioned whether “any agency of Canada” gave information to US authorities to which Wayne Easter (the Solicitor General) responded “the RCMP was not involved in the decision made by the United States authorities to arrest and deport Arar” (Canada, House of Commons, October 1, 2003).

The fact that much of this discussion hinged around the presumption of Arar's guilt may go some way in explaining why, as late as October 2003 just days before his release, *Globe and Mail* reporter Paul Knox felt compelled to observe that "suspicion lingers that Canadian authorities were complicit in this travesty," but to also ask "where is the loud, sustained, all-party, cross-country outrage?" (Knox, 2003: A19).

Due process was also a theme that emerged in the first period. Liberal MP Irwin Cotler (who acted as legal counsel for Arar) co-authored a commentary in *The Globe and Mail* claiming:

even if some elements in Canada's intelligence agencies may not be prepared to stand behind Maher Arar, the Prime Minister and his government must do so. Mr. Arar's release is not a determination of his innocence, but a protection of his fundamental rights, including the presumption of innocence. Nothing prevents his being arrested upon his return, if the evidence exists to support it. (Cotler and Grossman, 2003).

While no public official ever questioned the importance of Canada respecting the rule of law and due process of the law, it is interesting that the question of the use of "force of law" seemed to be much more easily entertained as an American and especially Syrian practice rather than a Canadian one. Thus, any RCMP involvement in giving information to the United States was characterized by Wayne Easter, the Solicitor General, as involving "rogue elements" in the RCMP, (Fife, 2003: A6).

That a state of exception could involve the United States, or Syria, but not Canada was also reflected in reported statements of officials. Thus for example in August 2003, Foreign Affairs Minister Bill Graham claimed "our consular officials assure us that he [Arar] is in good physical condition. He personally rejects all allegations of torture." (quoted in Friscolanti, 2003). Nonetheless, Martin Levitt a former FBI counter-

intelligence officer claimed “the war on terrorism is about prevention, so people are being sent to places outside the United States so that they can get information from them.” (quoted in Fife, 2003: A6). Thus, even in the first period of the story, there were clear indications that torture was a key weapon.

### ***Law – Homecoming to Apology***

In contrast to the seeming ‘void of law’ in which Arar was positioned during his detainment and torture, the return home for Arar was in many ways marked by the rule of law and due process. The question of law and legality entered into the post-homecoming period in a number of ways. For example, it was implicated in the discourse surrounding the legality or illegality of the actions of American officials, replicating assertions in the previous period that the ‘force of law’ implicated only American and Syrian actions. Despite this, by the end of September 2006, American officials were still saying their actions were justified, with Attorney-General Alberto Gonzales telling reporters that Arar was *legally deported under US immigration law* (Sallot and Freeze, September 20, 2006: A1). In this sense, the American discourse focused on recoding Arar’s rendition to torture as legal – in this gesture, a profoundly illegal intervention gained the full force and legitimation of the law. The rule of law was also implicated in that Arar himself launched legal actions against the American and Canadian governments. The primary focus of this section, however, is the contrast between the void of law in which Arar found himself pre-October 2003, and the commission of inquiry that shifted Arar’s case firmly into the legal realm. Regardless of these shifts, what did remain constant during this period was the legitimating capacity of legal discourse, if not law itself.

From the beginning, the governing Liberal party adamantly rejected calls for a public inquiry, with Solicitor General Easter stating emphatically, “I will not agree to an inquiry.” (Sallot, Thanh Ha and Leblanche, October 7, 2003: A1). By November 5, 2003, demands for a public inquiry were endorsed by the House of Commons foreign affairs committee – with several Liberals breaking ranks and voting with the NDP motion. However, then Prime Minister Jean Chrétien stated that there was no need for a public inquiry because the RCMP Public Complaints Commission was looking into the case (Sallot, November 5, 2003: A1). As late as December 23, 2003, Prime Minister Paul Martin stated that he was leery of calling for a public inquiry because it might compromise national security: “I am going to get to the facts, but I’m going to get them in a way that does not imperil our national security.” (Sallot, November 5, 2003: A1). However, by February 10, 2004, the tone had changed.<sup>6</sup> The CPC was now attacking the inquiry as a ruse used by the governing party. Rick Casson, CPC, stated the inquiry has taken the issue “off the table so we cannot talk about it.” (Canada, House of Commons, February 10, 2004: 1300). This was echoed by Peter Mackay, CPC, who stated that the inquiry will “put these issues aside until after the election, again avoiding the accountability that is so sorely lacking in the government’s record.” (Canada, House of Commons, February 10, 2004: 1900). Again, as late as June 6, 2005, but perhaps at this point grounded more justifiability, Serge Ménard, BQ, stated, “I am beginning to think the government is creating commissions of inquiry in order to avoid answering questions.” (Canada, House of Commons, June 6, 2005: 1455).

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<sup>6</sup> In particular, the shift coincided with the growing controversy over the RCMP’s raid of journalist Juliet O’Neill’s home.

And while in some ways the narrative above can be read as shifts in political manoeuvring, the period was characterized by marked debates over how and where Arar's case 'fit'. When Arar first returned to Canada, Solicitor General Easter asserted that Arar's case could not be discussed because it involved RCMP "operational matters" (Canada, House of Commons, October 8, 2003: 1430). In October 2003, Foreign Affairs minister Bill Graham also suggested that the Arar file was being transferred to the RCMP as a "police matter" (Fife, October 8, 2003: A2). In this sense, the early move seemed to be to shift Arar's case out of the security/foreign affairs domain to the more individualized domain covered off by the RCMP, evident again in Solicitor General Easter's suggestion that Arar "or any others" could avail themselves of the RCMP's commission for public complaints if they felt "aggrieved". (Canada, House of Commons, October 22, 2003: 1450) The tendency here was also the explicit framing of Arar's case as non-systemic and an isolated event enacted at the hands of individuals. Foreign Affairs minister Bill Graham stated to the foreign affairs committee that we may never find the answers Arar seeks as no one is "going to be able to climb inside the minds of authorities of the United States who made certain decisions." (Fife, November 5, 2003: A1).

Yet, as pressure mounted, Arar's case slowly moved back to the arena of foreign affairs and national security – this time, however, the government stressed the bounds of transparency available in the post-9/11 context. On November 4, 2003, Solicitor General Easter suggested the "government is not hiding anything" and that the government is being "as transparent as we can be" (Canada, House of Commons, November 4, 2003: 1450). Later on April 16, 2004, Liberal Paul Szabo stressed that "We are in a much

different world that we were prior to September 11. There have been an enormous number of changes into how we have looked at our provisions in law, and in fact, the event of September 11, 2001, has spawned a substantial amount of legislation with regard to security and sovereignty issues.” (Canada, House of Commons, April 16, 2004: 1315).

Undeniably, the tone of the inquiry was deeply imbued in the rule of law. While not adversarial, it was a process stressing the importance of the establishment of facts, adherence to the rules of evidence and to due process, a process weighing the balance of public disclosure against national security concerns, and a process weighing the protection of the rule of law and human security. It is important to note, however, what was taken away from the inquiry. With the report submitted that day, on September 18 2006, Minister of Public Safety and Emergency Preparedness Stockwell Day stated “I want to highlight that the inquiry has determined...there is no evidence that Canadian officials participated or acquiesced in the American authority’s decision to detain Mr. Arar and move him to Syria.” (Canada, House of Commons, September 18, 2006: 1530). Despite the thoroughness and breadth of the commissioner’s report, a report that focussed not only on individual accountability, but on faulty procedures *and* systemic issues, the transition of Arar’s case into the legal realm may have enabled government discourse to focus on issues of innocence and guilt, as construed in the narrow legal sense, rather than on structural violences in the form of racialization and exception.

Moreover, while the process was supposed to invoke the ‘best’ aspects of the rule of law, it was still a legal process to which Arar had limited access. The inquiry heard *in camera* evidence between September 13, 2004 and April 25, 2005 – 49 witnesses testified, primarily officials from CSIS, the RCMP and Canada Customs. There were an



additional seven days of in camera evidence in August 2004, and two days in November 2005. The public hearings began on May 11, 2005 and were completed on August 31, 2005. In October and November 2005, there were three additional days of public evidence. In total, 83 witnesses were heard from over the course of 75 days of in camera testimony and 45 days of public testimony. With the majority of evidence not available to Arar or his lawyers, the inquiry was in a very real way unusual because Arar could not feasibly testify.

Again, while the inquiry and the inquiry's findings do represent a fundamentally important victory for Arar, the process was ambivalent in many ways. In particular, the federal government's very active pursuit of non-disclosure compromised the legitimacy of the process itself. In February 2004, Deputy Prime Minister and Minister of Public Safety and Emergency Preparedness Anne McLellan stressed that no information would be made public that could damage the security of either the Canada or the United States and that if necessary the government would resort to making an application to the Federal Court of Canada to keep information confidential that was provided to the inquiry (Chase and Fagan, February 6, 2004: A4). In light of the government's commitment to a very bounded conception of transparency, and as heavily redacted submissions began to emerge throughout the process<sup>7</sup> Liberal Marlene Catterall and NDP Alexa McDonough reminded the Commons that the norms of due process, transparency and accountability fundamentally require that one knows what one is accused of (Canada , House of Commons, November 16, 2004: 1810; Canada, House of Commons, October 15, 2004:

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<sup>7</sup> In fact, the government blocked a summary document on the inquiry's proceedings, a document the commissioner declared would not harm national security and contained information favourable to Arar.

1035). For Prime Minister Martin, however, the government's attempts to prevent the judge from releasing a summary of evidence in a national security case "is a *normal* part of the give and take in terms of what kind of documentation should be kept in confidence." (Sallot, December 17, 2004: A10 – emphasis added).

Consequently, while the inquiry and the positioning of Arar's case within the domain of law allowed for a process that ultimately cleared him *officially* of all suspicions and also allowed him to engage in the discourse of justice, the inquiry can be read, in some ways, as a depoliticizing gesture. By further abstracting Arar into an individually wronged citizen, *public political discourse* on the inquiry did function to remove Arar's case from the scope of political debate. At a very tangible level, this is evident in the dearth of coverage of Arar's case in the House of Commons during the inquiry itself. In addition, while public political discourse framed Arar's case as a justice issue, it is meaningful that the discourse of multiculturalism made no appearance, and that it was not framed as a justice issue implicating equity for a particular group of racialised citizens. As articulated by Minister of Public Safety and Emergency Preparedness, Stockwell Day, Arar's case was a "regrettable" incident (Canada, House of Commons, September 19, 2005: 1450), or a regrettable incident in a time of exceptional circumstances.

### **Conclusion**

This paper has taken the familiar story of Maher Arar to consider more closely the lessons this case of post-September 11 "extraordinary rendition" afford us. The lessons that may be potentially drawn from an analysis of this case are numerous with implications for law, security, and ethics to name a few. Our focus has been on what this

story can tell us about the contemporary Canadian state, which is committed to human rights (in the form of human security and liberal internationalism abroad, and multiculturalism and liberal individualism domestically).

Our (re) telling of Arar's story highlighted how important dualisms were at work in both the media coverage and parliamentary debates covering his case. First and foremost was the dualism introduced around guilt versus innocence. Additionally however, we highlighted two other important dualisms: Arar's status as a Canadian versus Syrian citizen, as well as that between the rule of law and the force of law. We would suggest then that the shifting meanings of citizenship and law need to be engaged by those seeking to defend or expand human rights in the form of human security or multiculturalism. More specifically, the consequences of our findings for those doing work in the area of human security and/or multiculturalism underscore the relevance of understanding the state in relation to structural and racialized violence, and its expressions both at home and abroad. As the Arar story suggests, such violence necessarily tempers the meaning of rights (whether in the form of human security or multiculturalism) and necessarily complicates what is meant by 'the rights revolution.'

Coming back to where we started, the fact that the Canadian state did issue an apology and Maher Arar is significant, and reflects on the fact that the spaces of multiculturalism, rule of law, and discourses of exception afford opportunities for individual and collective resistance. As such, if more critical theoretical interventions such as those of Agamben and Goldberg serve to caution against the limitations of accounts of human security or multiculturalism which ignore violence, accounts like Agamben and Goldberg which highlight systemic and structural violence are aided by

considerations of the manner in which human agency and the variety of social forms underpinning different states work in resisting violence. It seems to us that any realistic understanding of the Canadian state —both before and after September 11, 2001— must consider the variable and complex ways that violence is manifested and resisted.

We would also suggest that this kind of understanding that weaves together recognition of violence, and resistance to violence, is central to any realistic discussion of human rights and human security — both before and after September 11, 2001.

## Bibliography

### *Books and Articles*

Abu-Laban. 2005. "Regionalism, Migration and Fortress (North) America." *Review of Constitutional* 10, 1: 135-162.

Abu-Laban, Yasmeen. 2004. "The New North America and the Segmentation of Canadian Citizenship." *International Journal of Canadian Studies*. 29, 1: 17-40.

Abu-Laban, Yasmeen, Radha Jhappan and François Rocher (eds). 2008. *Politics in North America: Redefining Continental Relations*. Peterborough: Broadview Press.

Abu-Laban, Yasmeen and Christina Gabriel. 2002. *Selling Diversity: Immigration, Multiculturalism, Employment Equity and Globalization*. Peterborough: Broadview Press.

Agamben, Giorgio. 2005. *State of Exception*. Chicago: University of Chicago Press.

Axworthy, Lloyd. 2001. "Human Security and Global Governance: Putting People First." *Global Governance* 7,1 (Jan-March 2001): 19-23.

Day, Richard J.F. 2000. *Multiculturalism and the History of Canadian Diversity*. Toronto: University of Toronto Press.

Fleras, Augie. 2006. "Multiculturalism vs. (anti-)Racism: Duelling Discourses or Discursive Partners?" *Canadian Diversity/Diversité Canadienne* 5, 2 (Spring 2006): 25-28.

Galtung, J. 1969. "Violence, peace and peace research". *Journal of Peace Research* 6,3: 167-191.

Goldberg, David Theo. 2002. *The Racial State*. Massachusetts and Oxford: Blackwell Publishers Inc.

Ignatieff, Michael. 2000. *The Rights Revolution*. Toronto: House of Anansi.

Irwin, Rosalind. 2001. "Linking Ethics and Security in Canadian Foreign Policy." In Rosalind Irwin (ed.), *Ethics and Security in Canadian Foreign Policy*. Vancouver: UBC Press: 3-13.

James, Matthew. 1999. "Redress Politics and Canadian Citizenship." In Harvey Lazar and Tom McIntosh (eds.), *The State of the Federation, 1998-1999: How Canadians Connect*. Montreal and Kingston: McGill-Queen's University Press: 247-281.

- Keating, Tom. 2002. *Canada and World Order: The Multilateralist Tradition of Canadian Foreign Policy*. Oxford: Oxford University Press.
- Knight, W. Andy. 2001. "Soft Power, Moral Suasion, and Establishing the International Criminal Court: Canadian Contributions." In Rosalind Irwin (ed.), *Ethics and Security in Canadian Foreign Policy*. Vancouver: UBC Press: 113-137.
- Kymlicka, Will. 2007. "Ethnocultural Diversity in a Liberal State: Making Sense of the Canadian Model(s)." In Keith Banting, Thomas J. Courchene and F. Leslie Seidle (eds.), *The Arts of the State Volume III: Belonging? Diversity, Recognition and Shared Citizenship in Canada*. Montreal: Institute for Research on Public Policy: 39-86.
- Kymlicka, Will. 1998. *Finding our way : rethinking ethnocultural relations in Canada*. Toronto: Oxford University Press.
- Macdonald, Laura. 2004. "In the Shadow of the Hyperpower: Beyond Canada's Middle-Power Image." In Michael Whittington and Glen Williams (eds.), *Canadian Politics in the Twenty-First Century*. Toronto: Nelson/Thompson: 291-311.
- Mackey, Eva. 2002. *The House of Difference: Cultural Politics and Identity in Canada*. Toronto: University of Toronto Press.
- McRae, Rob. 2001. "Human Security in a Globalized World." In Rob McRae and Don Hubert (eds.), *Human Security and the New Diplomacy: Protecting People, Promoting Peace*. Montreal and Kingston: McGill-Queen's University Press: 14-27.
- Moodley, Koogila. 1983. "Canadian Multiculturalism as Ideology." *Ethnic and Racial Studies* 6, 3: 320-331.
- Nef, Jorge. 2001. "The Ethics of Mutual Vulnerability: A Developmental Perspective for Foreign Policy." In Rosalind Irwin (ed.), *Ethics and Security in Canadian Foreign Policy*. Vancouver: UBC Press: 17-37.
- Peter, Karl. 1981. "The Myth of Multiculturalism and Other Political Fables." In Jorgen Dahlie and Tissa Fernando (eds.), *Ethnicity, Power and Politics in Canada*. Toronto: Methuen: 56-67.
- Ramirez, Bruno and Sylvie Taschereau. 1988. "Les minorités: Le multiculturalisme appliqué" in Y. Bélanger and D. Brunelle (eds.), *L'ère des libéraux. Le pouvoir fédéral de 1963 à 1984*. Québec: Les Presses de l'Université du Québec.
- Stasiulis, Daiva and Yasmeen Abu-Laban. 2000. "Unequal Relations and the Struggle for Equality: Race and Ethnicity in Canadian Politics." In Micheal Whittington and Glen Williams (eds.), *Canadian Politics in the 21<sup>st</sup> Century*. Toronto: Nelson: 371-398.

Thobani, Sunera. 2007. *Exalted subjects : studies in the making of race and nation in Canada*. Toronto; Buffalo: University of Toronto Press.

Wong, Lloyd and Vic Satzewich. 2006. "Introduction: The Meaning and Significance of Transnationalism." In Lloyd Wong and Vic Satzewich (eds.). *Transnational Identities and Practices in Canada*. Vancouver: UBC Press: 1-17.

### ***Documents/Primary Materials/Popular Press***

Alberts, Sheldon. "Ottawa 'hitting the snooze button on security'". *The National Post* (19 November 2002): A9.

Aubry, Jack. "Arar told Syria of terror cells, report suggests: Canadian deported by U.S. outraged by new accusations". *The National Post* (24 October 2003): A8.

Bissett, James. "Why our Allies Don't Trust Us". *The National Post* (31 July 2003): A14.

Brown, Jim. "No apology for Arar deportation, Wilkins says; U.S. ambassador defends action." *The Globe and Mail* (19 September 2005): A9.

Canada. Parliament. House of Commons. *Debates* (Online). Available: <http://www2.parl.gc.ca/housechamberbusiness/ChamberSittings.aspx?View=H&Language=E&Parl=&Ses=>. [October 15, 2007].

Canada. *Commission of Inquiry into the Acts of Canadian Officials in Relation to Maher Arar: Report of the Events Relating to Maher Arar: Analysis and Recommendations*. (Online). Ottawa: Public Works and Government Services, 2006. (Cat. No. CP32-88/1-2006E). (Commissioner: The Honourable Dennis R. O'Connor, Associate Chief Justice of Ontario). Available: [http://www.ararcommission.ca/eng/AR\\_English.pdf](http://www.ararcommission.ca/eng/AR_English.pdf). [October 15, 2007].

Canada. *Terms of Reference for the Public Inquiry into the Maher Arar Matter*. (5 February 2004). Available: [http://www.ararcommission.ca/eng/Terms\\_of\\_Reference.pdf](http://www.ararcommission.ca/eng/Terms_of_Reference.pdf). [October 15, 2007].

Chase, Steven. "Graham rejects Arar inquiry." *The Globe and Mail* (22 December 2003): A1.

Chase, Steven and Drew Fagan. "Judge given broad leeway in Arar probe; Inquiry expected to keep sensitive details on security and defence confidential." *The Globe and Mail* (6 February 2004): A4.

Cheney, Peter. "Ottawa not helping Deportee, NDP says." *The Globe and Mail* (19 October 2002): A6.

Cotler, Irwin and David Grossman. "The Arar Case Should Scare Us All." *The Globe and Mail* (2 September 2003): A11.

Curry, Bill. "Ottawa pledges to act on report." *The Globe and Mail* (19 September 2006): A9.

Dawson, Anne. "Canadian Man Being Tortured in Syria." *The National Post* (7 August 2003): A5.

DePalma, Anthony. "Canadian Immigrant Arrested at J.F.K. is Deported to Syria." *The New York Times* (12 October 2002): 14.

Edwards, Steven. "Manley warns Washington that Arar case may hurt relations: Seek assurances it won't happen again." *The National Post* (24 November 2003): A1.

Fagan, Drew. "Intelligence-sharing rules lacking; Despite the harsh words on Arar case, greater co-operation expected as a result." *The Globe and Mail* (27 November 2003): A4.

Fife, Robert. "Officials link Arar to Qaeda camp: Family says claim is part of smear campaign by anonymous officials, demands inquiry." *The National Post* (30 December 2003): A1.

Fife, Robert. "Martin says he 'understands' why U.S. deported Arar: Cites security concerns: 'We have to make sure that this kind of issue does not arise ever again'." *The National Post* (22 November 2003): A11.

Fife, Robert. "Arar may still be facing national security probe: 'Inappropriate for any solicitor-general to publicly confirm an RCMP investigation.'" *The National Post* (8 October 2003): A2.

Fife, Robert. "Inquiry rejected in Arar affair: Freed detainee's wife vows justice despite Solicitor-General's refusal to conduct investigation: Grits accused of cover-up." *The National Post* (7 October 2003): A4.

Fife, Robert. "MPs Demand RCMP reveal role in U.S. Deportation: Canadian in Syrian Jail." *The National Post* (26 September 2003): A2.

Fife, Robert. "Washington Will Not Help Free Ottawa Man It Deported to Syria." *The National Post* (12 September 2003): A8.

Fife, Robert. "Inquiry Urged into Canadian's Deportation." *The National Post* (31 July 2003): A6.



Fife, Robert and Richard Foot. "Celluci won't testify on Arar: Diplomatic immunity: U.S. deported Canadian to Syria, where he was jailed." *The National Post* (11 October 2003): A4.

Friscolanti, Michael. "Arar not Being Tortured: Graha; Captive's Wife Skeptical." *The National Post* (15 August 2003): A8.

*The Globe and Mail, Editorial*. "Arar illustrates what?" *The Globe and Mail* (2 May 2006): A14.

*The Globe and Mail, Editorial*. "Less than a triumph in the Arar Affair." *The Globe and Mail* (14 January 2004): A18.

*The Globe and Mail, Editorial*. "The Alarming Case of Maher Arar." *The Globe and Mail* (19 October 2002): A24.

Knox, Paul. "Maher Arar: As Canadians, where is our outrage?" *The Globe and Mail* (1 October 2003): A19.

Koring, Paul and Jeff Sallot. "Ottawa handed Arar file to U.S. Intelligence dossier' didn't just come from Canada alone,' Solicitor-General says." *The Globe and Mail* (20 November 2003): A1.

Mazigh, Monia. "Please send my Husband Home." *The Globe and Mail* (18 January 2003): A19.

*The National Post*, "Ontario: Terrorism Suspect May be Charged Soon, Liberal MP Says," *National Post* (29 April 2003): A10.

Sallot, Jeff. "Effort to stop judge releasing Arar data is normal, PM says." *The Globe and Mail* (17 December 2004): A10.

Sallot, Jeff. "Summit of the Americas: Agreement won't help, Arar says; U.S. can still deport under new deal." *The Globe and Mail* (14 January 2004): A7.

Sallot, Jeff. "The Case of Maher Arar." *The Globe and Mail* (5 November 2003): A1.

Sallot, Jeff. "Arar was not tortured, officials say; Engineer held in 'very bad' conditions in Syria, suffered psychological stress." *The Globe and Mail* (10 October 2003): A4.

Sallot, Jeff. "Maher Arar Returns." *The Globe and Mail* (7 October 2003): A4.

Sallot, Jeff and Colin Freeze. "The Arar Report: Ottawa vow to fix RCMP." *The Globe and Mail* (20 September 2006): A1.

Sallot, Jeff, Tu Thanh Ha and Daniel Leblanc. "Maher Arar Returns." *The Globe and Mail* (7 October 2003): A1.

Winsor, Hugh. "The Power Game: Arar case threatens to derail Martin plan." *The Globe and Mail* (24 November 2003): A4.