WHAT'S WRONG WITH SECURITY CERTIFICATES?

WHAT YOU CAN DO ABOUT IT

By The Campaign to Stop Secret Trials, 2006
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"The real threat to the life of the nation, in the sense of a people living in accordance with its traditional laws and political values, comes not from terrorism but from laws such as these. That is the true measure of what terrorism may achieve. It is for Parliament to decide whether to give the terrorists such a victory."
– Lord Hoffman, UK Law Lords , December, 2004

"We are going to make mistakes. We are even going to kill the wrong people sometimes. That's the inherent risk of an aggressive counter-terrorism program."
– White House Counter-Terrorism Deputy Director Roger Cressey, 2001

INTRODUCTION

> "The fight against terrorism will only be won if in fact the rights of individuals are respected at the same time….There is going to be constant battle in terms of where the balance lies. It is my view, and it is the Canadian view, that the balance has got to be on the side of freedom of the individual."
>
> – Prime Minister Paul Martin, to Russian President Vladimir Putin, October 11, 2004[i]

> "Canada has recalled its ambassador to Iran to protest that country's refusal to allow Canadians to attend the trial of an intelligence agent charged in the death of journalist Zahra Kazemi....a furious Foreign Affairs Minister Bill Graham told reporters yesterday, 'This is completely unacceptable behaviour on their part. It is a complete rejection of the rule of law…Under all human rights codes, under all international law standards, there should be a public trial with the right of the family to be present to see and ensure that justice is done,' he said. 'Justice will not be done behind closed doors...'"
>
> – Toronto Star, July 15, 2004[ii]

When Canadians went to the polls in the spring of 2004, they elected a Liberal government largely on the strength of its promise to uphold the Canadian Charter of Rights and Freedoms. It was a promise made for all people who live in Canada, with particular focus on the rights of minority groups. "I will stand up for the Canadian Charter of Rights and I will respect the rights of all," Paul Martin stated on January 21, 2005.

While the federal government is now a minority run by Stephen Harper, that theme of protecting Charter Rights remains a major focus for many across Canada. Yet for some individuals, families, and communities, that promise has yet to see full fruition. In the case of Canada's Arabic and Middle Eastern communities, and for sections of this country's Muslim community, the notion of Charter Rights has been obscured by racial profiling, aggressive surveillance by the RCMP and CSIS, the apparent participation of this country's intelligence agencies in overseas "extraordinary renditions" to torture, and by the use of secret trial security certificates.

Security certificates, for over two decades part of immigration law, are perhaps the most draconian measure available to Canadian authorities. While many Canadians expressed justifiable concern over civil liberties violations with the hastily passed C-36 (the Anti-Terrorism Act), few realize that the power to detain someone without charge or bail, on the basis of secret "evidence" which neither they nor their lawyer is allowed to see, has long been directed at Canada's refugee and immigrant population.

Five Muslim men—the Secret Trial 5–are subject to security certificates in Canada, and as of June, 2006, three remain detained at a facility on the grounds of Millhaven Federal Penitentiary in a unit dubbed Guantanamo Bay North (Mohammad Mahjoub, held since June, 2000, half that time in solitary confinement; Mahmoud Jaballah, held since August, 2001, over a year in solitary; Hassan Almrei, held since October, 2001, over four years in solitary confinement. Two more, Mohamed Harkat of Ottawa, held December, 2002, to June, 2006, and Montreal's Adil Charkaoui, held May 2003–February 2005, have both been released under harsh bail restrictions). All seem to have been swept up at politically expedient times almost at random: a pizza delivery man and a graduate student, a school principal and a pita sandwich shop keeper, a convenience store clerk. (A sixth individual, Manickavasagam Suresh, was subject to over two years of incarceration on a security certificate but has been out on bail since 1998).

Mr. Mahjoub and Mr. Jaballah have been held since long before the tragic events of September 11, 2001; Jaballah even had his case quashed by a Federal Court judge in 1999, only to be returned two years later to prison on a second certificate, with a CSIS agent admitting in the open portion of the secret trial that there was no new evidence, only a "new interpretation" of the old evidence which had already been deemed "not credible" by the Federal Court.

A KAFKAESQUE HELL

All they have in common is that they are Muslim men from Middle Eastern and/or Arabic countries. They have been jailed between 3.5 and 6 years without charges, fair and open trials, or, in most cases, bail. They live in a Kafkaesque hell, unable to understand what they possibly could have done to deserve this inhumane treatment, and constantly under threat of being deported to the countries they had fled in the first place, where they face almost certain torture and death. Syrian refugee Hassan Almrei has spent almost the entire time in solitary confinement (since his arrest in October, 2001), and most of the others have spent extensive periods in segregation, often arbitrarily placed there at the orders of Immigration officials. Their wives, families, and their twelve children suffer profoundly.

The Secret Trial 5 are only the tip of a mounting iceberg of victims of Islamophobia and fear resulting from the so-called "war on terror." Many immigrants, especially those from the Middle East and/or Arabic countries, face frequent harassment, discrimination and threats by CSIS, humiliation and sometimes outright kidnapping and torture (termed "rendition") when they travel abroad.

Indeed, according to *In the Shadow of the Law*, published by the International Civil Liberties Monitoring Group. it was reported that in "hundreds" of instances, people in Canada "are being visited for interviews by security forces without warrants, and taken away for interrogation. Although the full extent of Bill C-36 [so-called "anti-terror" legislation hurriedly passed by Parliament in 2001] was not implemented in these cases, it has been used as a threat to 'encourage' voluntary interviews by citing the risk of preventative detention allowed under the Act. Victims of such police conduct have been

afraid to come forward publicly for fear of further retaliation." (The ICLMG is composed of many groups including the Council of Canadians, Canadian Arab Federation, Greenpeace, David Suzuki Foundation, United Steelworkers of America, and many others).

That atmosphere of fear and intimidation forms the backdrop against which security certificates continue to be used. According to a variety of legal associations and human rights groups, including Amnesty International, the secret trial Security Certificate process is deeply flawed and damaging to Canada's legal integrity, its international reputation, and especially to those directly and indirectly victimized by it. It has violated the principles of natural justice and resulted in expensive and inhumane delays.

WHAT IS A SECURITY CERTIFICATE?

Under the Immigration and Refugee Protection Act (IRPA) , the Canadian Security Intelligence Service (CSIS) can initiate a process which leads to the arrest of permanent residents or refugees who have committed no crime, throw them in jail, and detain them indefinitely with the aim of deporting them, even in the face of potential torture and death. Neither they nor their lawyers are allowed to see the "information" upon which CSIS makes allegations against them.

Here's how it works.

- **Rubber-stamped "justice"?** CSIS (the Canadian Security Intelligence Service) approaches the Minister of Public Safety and Emergency Preparedness and the Immigration Minister to sign the certificate. It is unclear on what basis, exactly, such a signature is affixed to the certificate, other than "reasonable grounds to believe" that the allegations CSIS is bringing forth might be true. There are serious questions here.

    - In the public documents released eventually to the Federal Court, CSIS usually produces thousands of pages of newspaper articles, internet postings, and documents from right-wing think tanks (none of which names the individual in the security certificate). Their flimsy "case" then alleges the individual named in the certificate is somehow "associated" with the events and groups described in those thousands of pages, but fails to provide any solid links. After all, in such a case, the existence of facts does not need to be proven, only the *possibility* that certain facts *might* be true.

    - Do the Ministers actually have the time to read through this mountain of material and make an informed, independent judgment? Do they have the background and training necessary to make such a judgment? Or do they simply take CSIS at its word? One could easily conclude, with all due respect to the very busy ministers, that it is the latter case. Indeed, the

word of CSIS is rarely if ever questioned. *The Globe and Mail* reports that "between 1993 and 2003, CSIS filed warrant applications at a rate of between 200 and 300 a year for a total of 2,544 applications. Only 18 of these requests were rejected by the Federal Court, the last denial occurring five years ago."[iii]

Dangerously low standards of Information Gathering: In the cases of the secret trial detainees, we have learned that CSIS routinely conducts hours-long interviews without taking verbatim notes or tape recording interviews, preferring to go back to the office later and type up their recollections of what took place. What is a four-hour interview is often reduced to one or two pages of notes, hardly the basis for throwing someone behind bars for years on end. Part of the problem is that CSIS operates under a legislative scheme (the Immigration and Refugee Protrection Act, or IRPA) which states, at Section 78(j): "*the judge may receive into evidence anything that, in the opinion of the judge, is appropriate, even if it is inadmissible in a court of law, and may base the decision on that evidence."*

- CSIS agents often show up at an individual's door late at night without a translator, despite knowing that the individual's first language is not English.

- According to court transcripts, detainees report that CSIS agents regularly fail to inform the individual of their right to have an attorney present.

- In the case of Montreal detainee Adil Charkaoui, CSIS admits to destroying their notes of an interview with him because such destruction of notes is "standard practice," a practice which in a regular criminal proceeding would be impossible to defend.

- CSIS interview techniques are designed to trick or badger an interviewee into saying something that fits the CSIS theory about an individual. They will intentionally mispronounce a name while asking, "Do you know this person," drawing a negative response. They will later pronounce the name properly, eliciting a "yes," but CSIS notes from such an encounter often read as if the individual is trying to hide something, only later to "confess," thus painting the individual as untruthful or untrustworthy. Such notes often state that the interviewee becomes "agitated" or "defensive" but since there are no verbatim notes or tape recordings, it is difficult to determine exactly what happened, reducing the matter to an often white CSIS agent's word against that of an Arab Muslim male who has already been labeled a security threat. An analysis of notes in security certificate cases shows that this is often a cookie-cutter approach, with the same keywords to destroy credibility (i.e., "individual became agitated at the mention of this name," "individual first denied knowing, but upon

further questioning, suddenly revealed knowing.") *(from CSIS interview notes, Mahjoub, 2000)*

CSIS's generally accommodating oversight committee, the Security Intelligence Review Committee, has annually reported concerns about CSIS practices:

SIRC's 1999-2000 report, for example,raises questions "about some beliefs the Service has about the nature of the threat. We are of the opinion that these beliefs are sometimes overdrawn."

- The SIRC report points out one instance, likely illustrative of many more, in which a CSIS application for warrant powers contained "a number of overstatements."

- In another case, "information put forward was more than a decade old and the information adduced was derived from one source's 'feelings.'

- "One source's speculation was quoted. Some assertions that the target engaged in 'suspicious activities' appeared to us to be misleading or exaggerated."

- "For another person targeted, [CSIS] failed to include in the affidavit significant information of which it was aware which contradicts its own position on the person."

- In yet another case, a hyperactive CSIS treated as a threat activity what "seemed to be routine diplomatic behaviour," while in another case, "with little corroborating information, CSIS ascribed intelligence gathering motives to apparently normal consular contacts."

- Each annual report produced by SIRC stresses the importance of CSIS getting its facts right. The fact that a 21-year-old spy agency needs such ongoing prodding is frightening.

SIRC concludes we need the best possible national security advice "unencumbered by unfounded speculation." *(Security Intelligence Review Committee Annual Report, 1999-2000)*

In its 2001-2002 report, SIRC had to remind CSIS that " CSIS should strive for the utmost rigour in its warrant acquisition process, ensuring that allegations in the affidavit are factually correct and adequately supported in the documentation." (P. 22) To constantly need to remind a spy agency of such basics points to ongoing problems that run through that agency.

In testimony before the Senate Defence Committee in May, 2006, Jack Hooper, deputy director of operations at CSIS, painted an overly broad

sense of his organization's operational mandate, stating: "We stay up at night worrying about the threats we don't know about."

The September, 2005 release of a Security Intelligence Review Committee report on the case of Bhupinder Liddar, who had been deemed a security risk by CSIS, is instructive inasmuch as it refers to patterns of behaviour by the spy agency which have been apparent to those targetted by security certificates for years. SIRC reports that it was "purposefully misled" by CSIS as it tried to "suppress information that was embarrassing to the Service." SIRC notes that in the case of denying clearance to Mr. Liddar, "the brief contained an unfairly and prejudicially inaccurate account of the information in the possession of CSIS at the time it commenced the security clearance investigation." The report also finds that the CSIS field investigation "made unwarranted findings that Mr. Liddar was dishonest in his security screening interview" and that CSIS perpetuated a bias against Mr. Liddar.

A CSIS CASE STUDY REVEALS DECEPTION OF THE COURTS

After the release of security certificate detainee Adil Charkaoui in February, 2005 (Federal Court Judge Simon Noel found that, even IF Mr. Charkaoui had posed a risk before his arrest, the passage of time had likely neutralized such a risk), CSIS appears to have set about a process that would refute such a rationale in the other cases coming up for bail.

In June, 2005, in anticipation of the release applications of Mohammad Mahjoub and Hassan Almrei, CSIS produced a three page report entitled "Islamic Extremists and Detention: How Long Does the Threat Last?" designed to counter the argument made by Justice Noel. This document, presented to the Federal Court, contains numerous sweeping generalizations and headline-grabbing conclusions unsupported by empirical data.

For example, the introduction to the report states "Violent beliefs of extremists will not fade with time," as if indoctrination or training of Muslims is somehow unique or irreversible. The report uses the term "Violent Islam", serving to brand anyone following the Muslim faith, devout or otherwise, as a danger.

The report refers to training camps in the 1980s and 1990s without referring to funding sources or Western support for them.

Under the heading "Once a Terrorist, Always a Terrorist?" CSIS claims that "given the nature of the ideology imparted, those who spent time in these camps, do not, as a rule, choose to abandon their cause." No supporting documentation is provided for this remarkable assertion, leading us to conclude that anyone who is accused of holding such beliefs can never change and is, therefore, not safe for release.

Then, CSIS presents what appears to be an alarming fact which is, in fact, selective information which, when viewed in its proper context, loses much of its emotional punch: "At least 10 detainees released from the Guantanamo Bay prison after US officials concluded they posed little threat have been recpatured or killed fighting US or coalition forces in Pakistan and Afghanistan," the statement begins.

On its own, the sentence sounds ominous, and appears to support the once-a terrorist always-a-terrorist thesis.

CSIS does not reveal that this sentence was taken verbatim from an October 22, 2004 Washington Post article that states, in fact, that the 10 detainees who have been released are "but a fraction of the 202 Guanatanamo Bay detainees who have been returned to their homelands." What appears to be a sinister trend is, when viewed in its context, a relatively insignificant figure, and would tend to weaken the CSIS argument that detainees can never be released.

CSIS BUILDS ITS CASES WITH SLOPPY GOOGLING

In the case of Mohammad Mahjoub, CSIS officers testified that they asked Mr. Mahjoub his opinion on The Satanic Verses, using the rationale that it was a controversial book in the Muslim world. When asked if the agent had ever questionned Catholics, the agent admitted that he had; however, when asked if he had ever asked a Catholic their opinion of The Last Temptation of Christ, the Martin Scorsese film which, like Satanic Verses, also erupted in a storm of controversy and protest, including death threats, the answer was no.

In the case of Hassan Almrei, the RCMP seized a home computer and downloaded its contents. They put together a picture book which featured pictures of Osama bin Laden, airline cockpits, and AK-47s, which they say came from Mr. Almrei's computer, "proving" that Almrei is a fanatical follower of Al-Qaeda. The Federal Court refused to allow a request that the RCMP produce a witness to discuss how the incriminating book was put together. Friends who went through the eventually returned computer testified in court that the images, which were part of a temporary internet cache, had been part of news web pages (such as CNN and BBC) in the days after Sept. 11, when such images would have been found in the internet caches of hundreds of millions of people across the globe. What the RCMP did NOT do was show the other images in the cache, which included pictures of angels weeping over the ruins in New York City, ads for weight loss, soft porn web links, and links to MP3s. The selective use of these images, without proper context or full disclosure, unfairly tarred Mr. Almrei's reputation in the eys of the court. The selective use of such material was in fact part of a CSIS pattern which has been criticized in Security Intelligence Review Committee (SIRC) reports as recent as September, 2005.

Mr. Almrei was interviewed for all of 10 minutes by CSIS three days before his arrest, and essentially asked a number of broad questions which in no way could have provided

the foundation for his arrest (had he ever been to Afghanistan, did he know Osama bin Laden).

Oftentimes, information which is revealed in the “reasonable opportunity to be heard” portion of the hearing produces information of which CSIS was wholly unaware, and which is later used in an incriminating fashion against the individual. For example, before Hassan Almrei was arrested, CSIS knew little about the Syrian refugee’s past. In the fall of 2002, Almrei produced a solemn declaration laying out his whole life on paper, discussing the various things he had done while overseas and the path to coming to Canada as a refugee. It appears that agents would have run every phrase of Almrei's declaration through the google search engine to see what they could come up with, and used that "information" against Almrei as he applied for bail and sought to stop his deportation to torture.

Part of his declaration stated Mr. Almrei had run a small honey stand in Saudi Arabia. So when CSIS ran "Saudi Arabia" and "honey" and perhaps even "Al-Qaeda" into the search engine, they came up with a bizarre article that appeared in the New York Times, which alleged that the honey business fronted money for al-Qaeda. No proof was provided other than unnamed sources in the U.S. administration.

To illustrate that this honey malfeasance was a major scandal and that CSIS had done its homework, CSIS also produced a BBC web report which essentially repeated the Times story, but since it was from the BBC, they claimed they now had TWO sources of credible information (had the CBC picked up the BBC version of the Times story, they would claim that there were THREE credible sources of information, even though they all repeated the same unfounded allegations in the original source).

The article in question, "Al Qaeda -- Trade in Honey is Said to Provide Money and Cover for bin Laden," appeared in the Times in October, 2001, and was composed by the much discredited Judith Miller, who willingly reported false information about alleged weapons of mass destruction in Iraq as part of the build-up to the US invasion of Iraq. Like much of her work, it relied wholly on “unnamed administration sources.”

In another instance of sloppy CSIS work, the public summary of allegations against Mr. Almrei, released in 2005, lists a concern related to Ibn Khattab, a mujahedin fighter who was killed by the Russians in 2002. Mr. Almrei admits he had met Khattab fleetingly and travelled with a group headed by Khattab to Tajikistan.

A CSIS summary of allegations dated July 14, 2005, states "ALMREI is aware of the background and current activities of Khattab."

On its own, the allegation sounds eerie and suspicious. But then, given that Khattab was killed in 2002, everyone reading this knows the current activities of Khattab.

- **Unnecessarily humiliating arrests:** The individual named in the certificate is then arrested, often in a public takedown (even though CSIS often knows the lawyer of the individual and the individual's address and could arrange to have the individual arrested in a low-key manner). None of the individuals arrested has had weapons on their person nor in their general belongings.

- **Violations of normal court-room standards**: Once the case comes before a Federal Court judge (who must have the security clearance of CSIS to sit on the case), the Act specifically allows the government to introduce material that would normally be "inadmissible in a court of law"[iv] In practice, this includes rumors, gossip, newspaper opinion pieces, testimony obtained from people undergoing torture or who have been pressured to testify that a particular individual fits a certain profile. In a number of these cases, individuals named in security certificates note that they were arrested after repeatedly refusing to spy on their community for CSIS. CSIS apparently had one Scarborough imam ordered arrested by Egyptian security officials during a stopover in Cairo, during which he was ordered to stop offering bail monies for the detainees. CSIS does not present a balanced view of security-related issues, only those sources that reflect its own worldview. Hence, opinions on terrorism will be presented by the likes of right-wing think tanks and advisors such as Rohan Gunaratna but CSIS never includes writings from, for example, Noam Chomsky on the other end of the political spectrum. If the role of the security certificate is to provide ALL available information to allow a judge to decide, it is clear, at least from the public documentation, that CSIS is only providing a very biased, one-sided picture.

Among the many problems with the process in the Federal Courts are the following:

1. **Complete lack of disclosure**: The government generally does not adduce *any* evidence. The extent to which a Federal Court judge is willing to make inquiries can determine whether bits and pieces of evidence may eventually be released, or whether "summaries" of that evidence may be released. The detainee's lawyer has to defend him without knowing the allegations or who made them.[v] The government simply rests its case with a public summary of allegations which lead CSIS to conclude that it has "reasonable grounds to believe" a certain individual is inadmissible to Canada on security grounds. That summary is released to the individual within a week of arrest. The process states that the designated judge must sift through the materials (both public and secret) before determining what can be released to the individual or his lawyer. It is unclear how the judge hearing the case -- especially if the judge has no expertise in the politics, history, and culture of the area the individual is a refugee from -- has, in such a short time, the ability to go through all the materials and make a careful

consideration of what should be in the public summary. It appears that the judge simply hands over to the defense what CSIS has already produced. As with CSIS notes, the public summary is also a cookie cutter of a few pages of rambling allegations and guilt-by-association accusations without any documentary evidence. To release such evidence, CSIS claims, is to allegedly endanger national security. How national security would be endangered by such disclosure, we are told, cannot be revealed, for that *would also* allegedly endanger national security. In the Harkat case, lawyer Paul Copeland submitted a question to the judge, asking how CSIS figured that Mr. Harkat spoke French. The response released by the judge following the secret hearing was that the question could not be answered for reasons of national security.

2. **Overly broad definition of "terrorism":** The case is heard by the Federal Court, which has a broader definition of terrorism than the Supreme Court (which views it as a violation against civilians). The Federal Court's definition includes violence against military facilities. This broad interpretation would allow Canada to imprison on security certificates anti-Nazi partisans during WWII or Nelson Mandela, whose African National Congress was long considered a "terrorist" organization. Implicitly it also includes guilt by alleged association, regardless of the number of degrees of separation. Membership in an organization (often the basis of an allegation of security threat) is given an extremely broad, not narrow, scope in judicial decisions. To be someone who knew someone who knew someone who *might* have known someone is enough to peg someone as inadmissible to Canada.

3. **Unfairly low standard for upholding a security certificate:** At the Federal Court, the upholding of the certificate is based on "reasonable grounds," which is a less than 50% possibility. This could mean a 10% or 5% chance that the case has some credibility. And given that the mandate of a designated judge is simply to decide whether the ministers had reasonable grounds to sign the certificate, an upheld certificate is not a conclusion that one poses a risk or that the allegations are factually correct. It is the lowest standard of any court in the country. During the 1980s, security certificate cases did not result in long-term detentions, and they were heard by the Security Intelligence Review Committee, which made its decisions based on the higher probability standard, the *more than* 50% chance that the allegations might be true. Although the process was not perfect, under the previous SIRC process, one could cross examine the CSIS officers who prepared the reports. A third party lawyer could take one's questions behind closed doors with the SIRC panel and one would get an expurgated version of the testimony, so there was at least a sense of how many witnesses there were, and what some of the answers might have been. Those questions may simply not occur to the judge behind closed doors.

5. **Inconsistency:** There is inconsistency between the reasonableness of the certificate standard and the release standard. Under the Federal Court regime, release is based on the person proving they are not a danger on the probability

standard, the more than 50% chance, whereas upholding the certificate is based on the less than 50% standard.

6. **Uninformed judges and CSIS agents:** Most Security Certificate detainees are Muslims from the Middle East and/or Arabic countries. Federal Court judges and CSIS agents have an astounding lack of knowledge of historical, religious, political, economic, and related subtleties of Middle Eastern and Arabic peoples. To give one example, a common practice in the Muslim community is to use the name "Abu Ahmad" if one is the father of Ahmad. To CSIS, this could be the suspicious use of an alias.

7. **No appeal**: Once a judge has upheld a security certificate, it can't be appealed, even if the lawyer can bring overwhelming evidence that the "evidence" was in error and that the person poses no risk to Canada.[vi]

- **No accountability**: Once a certificate is upheld (and they have almost all been upheld), the individual named is subject to deportation. The individual may undergo a Pre-Removal Risk Assessment, and even if the individual is determined to be at substantial risk of torture or worse if deported, a delegate from the Immigration Minister's office must then "balance" the risk to the individual versus the perceived "risk" to Canada if he is kept here. In at least four cases (Jaballah, Mahjoub, Almrei, Charkaoui), the minister's delegate has concluded that they are at risk of torture, but that they must be deported based on the "totality" of the evidence. In December, 2004, it was learned that the Minister's delegate does *not* have access to the secret file, so it is unclear how they make such a risk evaluation if all they have to go on is what the individual has to go on, which is essentially nothing. In 2005, three separate judicial reviews of deportation decisions against Jaballah, Mahjoub and Almrei have concluded the decisions were illegal and, in one case, perverse. They have been re-submitted to Immigration for a new determination, all the while these men sit doing dead time for an illegally made decision which was the government's fault. A fourth judicial review, scheduled in April 2005 for Mr. Charkaoui, weas cancelled when the government, perhaps wary that it might fecae another blow in the courts, withdrew its similarly appalling deportation decision and sent it back for for redetermination. In March, 2006, a federal court judge found the decision to deport Mr. Jaballah to torture was "lawfully" made.

- **Deportation to torture or death:** As soon as the certificate is upheld, the deportation process begins. It becomes, as Sec. 81 (b) states, "a removal order that may not be appealed against and that is in force without the necessity of holding or continuing an examination or an admissibility hearing; and (c) the person named in it may not apply for protection under subsection 112(1)". The government has been trying to deport all of the Secret Trial 5 even though they would face torture and likely death (a violation both of the Canadian Charter of Rights and Freedoms and of International legal protocols to which Canada is signatory. Significantly, IRPA is designed to "comply" with international law, including the Convention Against Torture, which places an absolute prohibition on return to torture.). The Government

of Canada was reminded of this obligation in May, 2005, with a report from the United Nations Committee Against Torture that called on Canada to "unconditionally undertake to respect the absolute nature of article 3 [of the Convention Against Torture] in all circumstances. . . ." Article 3 states that no person should ever be sent to a country where there are substantial grounds for believing that he or she would be in danger of being subjected to torture.

- **Diplomatic assurances against torture**: The Government of Canada insists that it can safely deport these men to countries which regularly practice torture if it receives a promise (or "assurance") from those who torture that they will not torture these men. In April, 2005, Human Rights Watch released a landmark study called Still at Risk: Diplomatic Assurances No Safeguard Against Torture. This well-documented survey of cases in which individuals have been deported to torture despite "assurances" from the torturing states (such as Egypt, Algeria, Morocco and Syria) that no torture will occur deals with a number of countries, including Canada, which engage in this practice. The report notes that many human rights experts are expressing "alarm that governments are using assurances to circumvent their most fundamental human rights obligations." Human Rights Watch concludes, "countries that rely on such assurances are either engaging in wishful thinking or using the assurances as a figleaf to cover their complicity in torture and their role in the erosion of the international norm against torture."

- **Indefinite detention:** The detainees can, and have been, jailed indefinitely. The International Committee of the Red Cross has condemned such indefinite incarceration at Guantanamo Bay and elsewhere as cruel and unusual punishment. Yet the Federal Court of Appeal ruled that it would be "premature" to call three and a half years in solitary without charge or an expected date of release indefinite detention. In June, 2005, the United Nations Working Group on Arbitrary Detention made its first ever visit to Canada, and released a report expressing its "grave concern" that these individuals are held on mere suspicion.

- **No way for detainees to clear their names and go free:** Once on a security certificate, the Act provides no opportunity for the accused to clear their names and go free. Even in the rare case where a security certificate was not upheld, the accused faced a shocking case of double and triple and quadruple jeopardy. For example, Justice B. Cullen threw out the security certificate against Mr. Jaballah when he concluded that it was Jaballah, and not CSIS, who was credible. A year later, CSIS simply had Mr. Jaballah re-arrested using *the same evidence* but taking it to a different judge. Hassan Almrei was arrested largely because of his informal association with Nabil Al-Marabh, whom the U.S. had arrested on suspicions that he was a terrorist. No terrorist charges were ever brought against Al-Marabh, who was simply held and later deported on a minor immigration violation, but Almrei is still in jail threatened with deportation to torture.

WHAT'S WRONG WITH THIS SECURITY CERTIFICATE PROCESS?

The court is not given the power to decide on the truth of the allegations. Although a judicial review of the Ministers' decision to issue a security certificate is allowed, the court is not given the power to judge the truth of the allegations. The judge can only decide whether the Minister had "reasonable grounds" to sign the certificate. In the end, this is a political decision, which is fought in the arena of media sensationalism, public opinion, party politics, pressure from the United States administration, and behind-the-scene games in the shadowy spy world of CSIS and the RCMP.

Secret evidence makes the court process fundamentally unfair. The normal rules of a court of law don't apply. At 78 (c) of IRPA it states "the judge shall deal with all matters as informally and expeditiously as the circumstances and considerations of fairness and natural justice permit." By informal, they don't mean the judge shows up in jeans and a T-shirt. It means there are no standard rules that would apply in a criminal or civil trial setting. Neither the detainee nor his lawyer is informed of the precise allegations or provided with factual basis for the allegations. Additional information can be presented at any time to the judge in the absence of the detainee and his lawyer. Normal standards of evidence are explicitly waived. As lawyer Edward Greenspan wrote in *Maclean's*, "The evidence can be hearsay, double hearsay, triple hearsay". The December 16, 2004 Law Lords decision was clear on this point:

> "The suspect is not entitled to be told the grounds upon which he has been suspected. So he may not find it easy to explain that the suspicion is groundless. In any case, suspicion of being a supporter is one thing and proof of wrongdoing is another. Someone who has never committed an offence and has no intention of doing anything wrong may be reasonably suspected of being a supporter on the basis of some heated remarks in a pub. The question is whether thje United Kingdom should be a country in which the police can come to such a person's house and take him away to be detained indefinitely without trial."

Information based on confessions under torture and plea-bargains, which would generally be inadmissible, or at least highly questionable on grounds of ethics and credibility, is apparently used. There is no right to cross-examine witnesses who have made allegations. The result is that both the original approval of the certificate (by the Minister), and then the judgment on whether it is "reasonable" (by a Federal Court judge), are based on one-sided arguments, without access to cross-examination and context that a defence would normally bring forward. This violates a fundamental rule of due process: that both sides of the story are heard.

CSIS agents are increasingly "unavailable" to answer questions in court. Following a number of courtroom cross-examinations during which the credibility of CSIS agents handling the files of the security certificate detainee has been severely undermined (they have betrayed an alarming lack of knowledge about the context of the cases and of basic civil liberties norms), the agency is now refusing to provide agents to testify at the

public portion of the hearing, claiming the development of a security certificate is a "corporate process" and no one individual is capable of being subpoenaed to answer questions. Wary of situations such as the first Jaballah hearing, in which CSIS credibility was deemed unreliable next to Jaballah's testimony, it is clear CSIS wishes to avoid *any* scrutiny of its actions and research whatsoever.

There is no appeal. Once the Federal Court judge decides that there were "reasonable grounds" to issue the security certificate, there is no appeal. Lawyer Edward Greenspan in a *Maclean's* piece calls this "a glaring violation of a basic tenet of the rule of law." Constitutional lawyer Julius Grey argues that it is in fact unconstitutional, along with other elements of the secret trial process.

The detainee can be imprisoned for years without bail. Refugee detainees are not given any chance of release on bail either before or during the proceedings. They can be held for years without charge. In the case of Mohammad Mahjoub, this has meant jail for six years. For permanent residents like Adil Charkaoui, the court is required to conduct a detention review every six months. In Charkaoui's case, the judge refused release on bail three times, on the basis that the secret evidence he has seen makes him think that it is possible that a threat exists – before the case has even been heard! In effect, his decision reverses the fundamental rule of innocent until proven guilty. Charkaoui was released on his fourth attempt at bail.

The men can be deported, <u>even if their lives are threatened</u>. Can Canada deport someone to a country where they will face torture or murder? Legally, no, but in practice, Canada breaks the law all the time with respect to the rights of refugees and immigrants. Two previous security certificate detainees disappeared after being deported. Mourad Ikhlef was deported to Algeria and Mansour Ahani was deported to Iran; in the latter case, the United Nations Human Rights Committee requested that Ahani not be deported until they considered his case, but their appeal was ignored. The Supreme Court ruled in the *Suresh* case that no one can be deported to torture "except in exceptional circumstances" and in that decision left open for future cases the exact nature of what those circumstances might entail. Increasingly, international case law with respect to return to torture has concluded that it is a peremptory norm that return to torture *is never* permissible.

Deportation entails a substantial risk of torture and even death for all five men – in some cases, *because* of the case that has been made against them in Canada. For example, under Immigration Canada's own assessment, Adil Charkaoui faces a "risk of torture," and a "threat to his life or risk of cruel and unusual punishment" if he is deported to Morrocco[vii] Both Human Rights Watch (25 March 2004) and Amnesty International (28 July 2003) agree with this assessment and it is further substantiated by a detailed report on Morocco's "anti-"terror measures by the Fédération Internationale des Ligues des Droits de l'Homme (February 2004) and another by Amnesty International (June 2004).

But that is not enough! According to an August 2004 decision by the Ministry of Public Safety, deportation may still go ahead in Charkaoui's case, even though torture is a crime

against humanity. Canada has taken the same shocking position in other cases. The UN Committee against Torture actually had to remind Canada in 2000 that it is, in all circumstances, a violation of the *UN Convention Against Torture* to deport someone to a substantial risk of torture. In seeking to justify its deportations, Canada has sought "diplomatic assurances" that countries of origin will not harm them. Human Rights Watch exposes this cynical practice in its report "False Promises: Diplomatic Assurances no Safeguard against Torture," [viii]demonstrating that the request has sometimes masked an active intent that torture be used to extract confessions, as in the case of Maher Arar. Indeed, according to the International Civil Liberties Monitoring Group, the August 2004 decision by the Ministry of Public Safety to deny protection to Adil Charkaoui raises "serious questions about Canada's possible complicity with this practice of rendition."

Canada Violates International Law Commitments: The United Nations found in May, 2005 that Canada was in violation of its obligations under the Convention Against Torture due to its refusal to abide by the absolute prohibition on deportation (refoulement) to torture (article 3 of the convention). The UN Committee Against Torture called on Canada to "unconditionally undertake to respect the absolute nature of article 3 in all circumstances and fully to incorporate the provision of article 3 into the State Party's domestic law; [to] "extend to currently excluded persons entitlements of status as a protected person and protection against refoulement on account of a danger of torture; [and to] " provide for judicial review of the merits, rather than simply of the reasonableness, of decisions to expel an individual where there are substantial grounds to believe the person faces a risk of torture."

CSIS has a record of incompetence and corruption. Its word cannot be trusted. CSIS has no Arabic speakers. Their idea of sensitivity training towards the Muslim community is to take a one-day seminar taught by fellow "intelligence" experts. The Law Union of Ontario recently presented a brief challenging the competence, ethics, and honesty of CSIS. Specifically related to Security Certificate cases, the brief said: "In a number of cases before the Federal Court and/or SIRC it was the opinion of the Law Union lawyers involved in those cases that CSIS agents were not well informed, or well trained, that they relied on dubious and/or unreliable sources of information and that they did not understand the culture or political dynamics of the community they had under surveillance. CSIS agents, or their counsel, kept secret matters that did not need to be kept secret and withheld information that had been disclosed in other proceedings."[ix]

Discrimination against non-citizens. Security certificates only apply to permanent residents and refugees. They thus deny certain classes of people in Canada their fundamental rights – an unacceptable discrimination. Human rights are inalienable and do not depend on citizenship status. As the British Law Lords ruled on Dec. 16, 2004, this form of discrimination violates basic human rights. If citizens whom CSIS considers security risks are free, why should non-citizens be jailed indefinitely or deported without charges or recourse to appeal? (The British government's attempt to circumvent this ruling by detaining both citizens and non-citizens without due process[x] will undoubtedly

be challenged. However it demonstrates how denying non-citizens due process ultimately threatens all of our civil liberties.)

Secret trials for refugees and immigrants are just the beginning. The security certificate hearings at the Federal Court level date back to 1991 and were kept in the Immigration and Refugee Protection Act in 2002. It is a tool that has been put to use in the post-9/11 climate of racist hysteria around "national security" to attack the Muslim and Arab communities, immigrants and civil liberties. "National security" is endangering all of us. It served as a precedent for the failed Citizenship Act (C-18), which would have introduced the use of secret evidence against naturalised Canadians (i.e. stripping them of their citizenship and deporting them on the basis of secret evidence either at the behest of the Minister of anyone designated by the Minister). With C-36, the *Anti-Terrorism Act*, similar violations of rights are extended to all citizens and more arbitrary powers are put in the hands of police and security forces. The historical parallels are clear: Japanese-Canadians interned and deported from Canada during World War II; the "red scare" of the McCarthy era; the suspension of the rule of law in Quebec in 1970; similar civil liberties suspensions in Windsor during the OAS summit of 2000; Quebec City, during the FTAA summit in 2001; and during the G-8 meeting at Kananaskis, 2002. These should stand as warnings to us. If national security is not about safeguarding fundamental freedoms and values, what is it about?

The timing of arrests suggests that they are politically motivated. Charkaoui, Harkat, and Almrei were all picked up at politically opportune times to demonstrate Canada's compliance with U.S. pressure to support its "war on terror." Charkaoui, born in Morocco, had a warrant out for his arrest a good ten days before he was arrested, during which he was followed constantly by the RCMP; he was ironically arrested just after a terrorist act in Casablanca, Morocco, conveniently linking him in the papers to an event with which he had no connection. Harkat was arrested the day before then Solicitor General Wayne Easter arrived in Washington to update the U.S. on how Canada was contributing to the "war or terror." Almrei was arrested after endless carping from the U.S. about porous Canadian border security and allegations about a Canadian connection to Sept. 11. Mr. Jaballah was re-arrested in August, 2001, two days before a scheduled refugee hearing.

The security certificate process undermines human rights and international norms. As a result, secret trials damage Canada's international reputation and pose a dangerous precedent for all Canadians. Amnesty International "is of the view that the security certificate process may very well result in arbitrary detention and thus violate the fundamental right to liberty." Amnesty also believes that the Secret Trial Five are "effectively denied their right to prepare a defence and mount a meaningful challenge to the lawfulness of their detention," which puts Canada on the wrong side of articles 9 and 14 of the *International Covenant on Civil and Political Rights* (Amnesty International, 31 March 2004). Canada's position on deportation to torture places our country on the forefront of a frightening international trend towards the legalisation of torture. In all these respects, Canada's actions are weakening international protections for fundamental human rights.

OPPOSITION TO THE SECURITY CERTIFICATES IS GROWING

Both the British Law Lords and the U.S. Supreme Court have issued rulings criticizing violations of due process and arbitrary detention of people suspected of having links to terrorism. Time after time, whenever legal opinions or statements have been issued with respect to the war against terrorism, they have always contained the strictest warning that we must not sacrifice our rights in the name of defending freedom.

International rights organizations criticize security certificates. Human Rights Watch, Amnesty International, the United Nations, the International Civil Liberties Monitoring Group, and many others have sent submissions to the government of Canada protesting security certificates.

Over 60 Canadian law professors and legal association representatives protest Security Certificates: "In October, 2004, a coalition of law professors and defense lawyers wrote to Public Safety Minister Anne McLellan, setting out the egregious flaws they say combine to deny due process to those held on security certificates. The procedure, they wrote, allows for the indefinite detention of foreign nationals based on secret evidence while holding the government to such a low standard of proof—a judge must only find the certificate is "reasonable" to trigger a deportation—that it denies detainees a meaningful chance to win their freedom. "As undeniably serious as these violations are, they pale in comparison to what, for some, is the eventual outcome of the process: torture, which is perhaps the ultimate violation of human dignity and fundamental human rights." [xi]

Even Federal Court judges dislike them: Here's what Judge Hugessen said in March, 2002:

> "I can tell you, because we [all the Federal Court Judges] talked about it [the security certificate process],"…"We hate hearing only one part. We hate having to decide what, if any, sensitive material can or should be conveyed to the other party…We greatly miss, in short, our security blanket which is the adversary system that we were all brought up with and that, as I said at the outset, is for most of us the real warranty that the outcome of what we do is to be just and fair." (Ottawa Citizen Dec. 12, 2004) [xii]

Federal Court Judge Andrew Mackay complained in May of 2003, "In this great city of Toronto, we have our own Guantanamo Bay."

IF WE DON'T HAVE SECURITY CERTIFICATES, WHAT WOULD YOU USE?

We believe strongly that the Criminal Code of Canada is more than capable of being used in cases that are associated with security concerns. Using the Criminal

Code would also eliminate the discriminatory facets of using immigration procedures to deal with security concerns. Currently, we have two tiers of justice in Canada: one for non-citizens, one for citizens.

Security certificates:

1. Violate equality. Citizens suspected of identical involvements and activities are not subjected to the same abusive treatment: the presumption of guilt, lack of fair trial, and preventive detention or preventive conditions are reserved for non-citizens.

2. Violate due process. The reasonability standard (ie rather than proof beyond a reasonable doubt), the secrecy provisions, the low standard of evidence, and the lack of appeal and other procedural safeguards open the door wide to abuse.

Any solution to the problem must address these key concerns. It must also accord with the non-negotiable, absolute prohibition on deportation to torture, which Canadians are legally and morally bound to respect.

The Criminal Code is immediately available. Proposed reforms of the security certificate, including the amicus curiae process suggested at the conclusion of the Arar Inquiry, are window-dressing on a fundamentally flawed process and do not show a way out of this conundrum. That suggestion has also been condemned by Amnesty International and former "special advocates" in the U.K. as legitimizing inequality and inherently unfair processes.

It is commonplace to pose the problem as one of a balancing act between individual rights and public safety. But perhaps the question is rather one of where we put our trust. In the criminal justice system that, though far from perfect, has been honed and worked out over hundreds of years? Or in the hands of an agency, CSIS, which has a 21-year, unchanged pattern of witholding of information which does not support its own theories, overstating risk assessments, destroying interview notes, and outright ideological bias and deception. It concerns us that the patterns in the security certificate cases are replicated in CSIS assessments provided to the federal government. It concerns us that an agency upon which the government relies has shown itself capable of deceiving officials and acting for political purposes. Lack of due process in security certificates opens the door to abuse.

Under Canadian sentencing law, security certificate detainees have already served the equivalent of between 9 and over 15 years behind bars, in provincial remand centres not equipped for long-term detention. In other words, they have already spent more time behind bars than if they had been citizens charged, convicted, and sentenced to the full 10 years under the Anti-Terrorism Act.

If there is a case to be made, the men should be charged and provided with a fair, transparent judicial process under the Criminal Code. We say this knowing that in the case of Hassan Almrei, internal DFAIT documents released by the Arar Commission

acknowledge that the evidence against him “does not meet the threshold for criminal charges to be laid.” There is no reason to believe this is not the case in the other four cases.

CAN THE CRIMINAL LAW BE EFFECTIVE?

Lawyer John Norris of the firm Ruby and Edwardh in Toronto represents three of the secret trial detainees, Mahmoud Jaballah, Mohammad Mahjoub, and Hassan Almrei. He points out:

“1. First, as the House of Lords observed recently in the "A" case, one should have real doubts about the wisdom of using immigration procedures to address the threat of international terrorism. A country that chooses simply to deport individuals it considers a threat to national security is just washing its hands of the problem. How can that be consistent with Canada's international obligations to take all necessary steps to combat international terrorism?

2. Second, Canadian criminal law (especially post-September 11th) is capable of covering any conduct which could reasonably be viewed as a threat to our security. The offence of conspiracy to commit an indictable offence (s.465(1) of the Code) is very broad. All the Crown needs to prove is an agreement among two or more persons to commit an offence. No steps need to be taken pursuant to that agreement. A mere agreement is sufficient to commit the offence.

3. Third, while the usual rule is that states have jurisdiction to prosecute only offences committed within their territory, there are several exceptions that could apply in the case of alleged threats to national security. Section 465(4) makes it an offence to conspire outside Canada to commit an offence in Canada. And ss.7(3.74) and 7(3.75) broaden the jurisdiction of Canadian courts to cover terrorist offences and terrorist activity outside Canada in a wide range of circumstances.

4. Fourth, we must resist the idea that there is something *sui generis* about terrorist groups. Any group engaged in illegal activities will attempt to keep its activities secret, will be suspicious of surveillance, will act in a clandestine fashion, etc. Often it is only possible to investigate criminal organizations by using confidential informants. None of this has prevented Canadian authorities from investigating and prosecuting various forms of organized crime from the traditional Mafia to biker gangs to today's street gangs. Neither should it prevent Canadian authorities from investigating and prosecuting criminal conduct by "terrorists" that occurs in Canada.

5. Fifth, for similar reasons, we must also resist the idea that open trials cannot be held on terrorism charges. Of course they can. Secret evidence is often used in the investigation of offences (e.g. to get wiretaps) but it cannot be used in the actual prosecution. That is not usually a problem. Criminal courts have the power to protect sensitive information about investigative methods, confidential informants and a host of other matters in which there is a real public interest in ensuring confidentiality. The trial can proceed on the

basis of other evidence. But as the Arar Commission has shown, the "national security" exception to disclosure is being used to cover a great deal more than this. If we can ensure that this privilege is limited to matters of genuine signficance for national security, and can eliminate inter-state communications (which is likely why it is usually invoked in security certificate cases), then the amount of evidence that must remain secret would be considerably less than would otherwise be the case. In other words, the argument that secret evidence is essential to the investigation of these matters is a red herring, and it seems considerably less of what most of us would agree should be secret is involved. But of course, we will never know, will we?

6. Finally, it might be argued that criminal prosecutions are long and expensive. Just look at Air India. That's true, but it seems that Air India actually proves that the system can work. While many may have been disappointed in the verdict, the Crown ultimately concluded, and it is fair to say that society as a whole would accept, that it was unassailable. Needless to say, fair process is an essential part in reaching any such verdict. Is that not what we should be striving for in every case, however time-consuming and expensive the process may be? When we are dealing with fundamental human rights and international obligations, cost should be no object."

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IF IT WORKS IN THE UNITED STATES….

The judge in the sentencing of Ahmad Ressam (the so-called Millenium Bomber) in Washington State declared, "We did not need to use a secret military tribunal, or detain the defendant indefinitely as an enemy combatant, or deny him the right to counsel, or invoke any proceedings beyond those guaranteed by or contrary to the United States Constitution. I would suggest that the message to the world from today's sentencing is that our courts have not abandoned our commitment to the ideals that set our nation apart. We can deal with the threats to our national security without denying the accused fundamental constitutional protections. Despite the fact that Mr. Ressam is not an American citizen and despite the fact that he entered this country intent upon killing American citizens, he received an effective, vigorous defense, and the opportunity to have his guilt or innocence determined by a jury of 12 ordinary citizens. Most importantly, all of this occurred in the sunlight of a public trial. There were no secret proceedings, no indefinite detention, no denial of counsel.

WHAT YOU CAN DO

ENDORSE THE FOLLOWING STATEMENT
BY SENDING AN EMAIL TO tasc@web.ca WITH YOUR NAME, TITLE, AFFILIATION AND ADDRESS SAYING "I ENDORSE THE STATEMENT"

Statement Against Secret Trial Security Certificates

We, the undersigned, have grave concerns regarding the continued use of sections 9, 76-87 of the Immigration and Refugee Protection Act, which allow for the imprisonment in Canada of refugees and permanent residents under the authority of a "Security Certificate":

We are particularly concerned that those detained under security certificates are:

- Being imprisoned indefinitely on secret evidence, though no charges have been laid against them;
- Tried in unfair trials where the evidence is not disclosed to the detainee or their lawyer;
- Denied the right to appeal when the certificate is upheld in a process that uses the lowest standard of proof of any court in Canada;
- Subject to deportation even when they face unfair imprisonment, torture or death.

We believe that the Security Certificate process is undemocratic and that it violates fundamental human rights, which the government of Canada has committed itself to through the Canadian Charter of Rights and Freedoms, the UN Universal Declaration of Human Rights, the UN Convention on Refugees, the International Covenant on Civil and Political Rights (ICCPR) and the UN Convention on Torture.

Accordingly, we demand that the Security Certificate process be abolished.

For those currently imprisoned under security certificates, we demand:

- That they be released immediately; or, if any case against them actually exists, that they be allowed to defend themselves in open, fair and independent trials with full disclosure of the case against them.
- That they not be deported.

To see who has recently signed the statement, go to
http://www.zerra.net/endorsements/EndorseListApr27_06.pdf

RAISE THE FOLLOWING DEMANDS.

1. That the Secret Trial 5 men be released immediately; or, if any case against them actually exists, that they be allowed to defend themselves in open, fair and independent trials with full disclosure of the case against them.
2. That they not be deported.
3. That the federal government abolish the secret trial security certificate process.
4. That CSIS and the RCMP end its ongoing harassment and intimidation of folks of Arabic, Middle Eastern, and South Asian heritage and/or Muslim faith.

5. Meet with your MP and ask that s/he:

   A. Raise this issue in their caucus, and encourage fellow MPs to sign on to the statement.
   B. Speak out against the deportations to torture, and seek a refugee scheme which is in full compliance with Canada's international obligations.
   C. Meet with the detainees and their families and hear first-hand what they have been through and what they face daily. They are more than happy to share this, as they have nothing to hide.
   D. Support our call for a full review not only of C-36, the anti-terrorism legislation, but also of the security provisions of IRPA.

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[i] Toronto Star, October 12, 2004
[ii] Toronto Star, October 12, 2004
[iii] Colin Freeze (Nov. 15, 2004) "CSIS has easy time getting warrants, documents reveal". *Globe and Mail.* http://www.theglobeandmail.com/servlet/story/RTGAM.20041115.wxcsis14/tional/
[iv] Immigration and Refugee Protection Act (IRPA), Division 9, Section 78(j)
[v] IRPA, Division 9, Section 78(b)
[vi] IRPA, Division 9, Section 80(3).
[vii] Opinion on PRRA, 21 August 2003.
[viii] Human Rights Watch (April 2004)"False Promises: Diplomatic Assurances no Safeguard against Torture.",
[ix] Law Union of Ontario (2004) Opening Submissions to the Arar Inquiry.
[x] Peter Graff (Jan. 27, 2005) "Britain broadens anti-terrorism powers" *Toronto Star*.
[xi] Andrew Duffy (December 12, 2004) "The Fight for the Soul of Canada's justice system: Terror v. Torture: Even the judges hate the security certificate process." *The Ottawa Citizen*.
[xii] Andrew Duffy (December 12, 2004) "The Fight for the Soul of Canada's justice system: Terror v. Torture: Even the judges hate the security certificate process." *The Ottawa Citizen*.