

Plaintiff MAHER ARAR, by and through his attorneys allege the following:

NATURE OF ACTION

1. This is a constitutional, civil, and human rights case challenging the decision by United States government (“Federal”) officials to send Maher Arar, a Canadian citizen seized while he was transiting through JFK Airport to a connecting flight home, to Syria for interrogation under torture. After holding Mr. Arar in harsh and punitive conditions, coercively interrogating him for hours on end, and depriving him of contact with his family, his consulate, and his lawyer, federal officials rushed Mr. Arar off in a private jet to Jordan and then Syria. Federal officials removed Mr. Arar to Syria with the full knowledge of the existence of state-sponsored torture in that country, and in direct contravention of the United Nations Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (CAT), a treaty ratified by the United States in 1994. Upon information and belief, federal officials removed Mr. Arar to Syria under the Government’s “extraordinary renditions” program precisely because Syria could use methods of interrogation to obtain information from Mr. Arar that would not be legally or morally acceptable in this country or in other democracies.

2. On information and belief, the decision to remove Mr. Arar to Syria for interrogation under torture was based solely on Mr. Arar’s casual acquaintance with individuals thought possibly to be involved in terrorist activity. On information and belief, there was never, and is not now, any reasonable suspicion to believe that Mr. Arar was involved in such activity.

3. Plaintiff Maher Arar brings this action against Defendants John Ashcroft, Larry D. Thompson, J. Scott Blackman, Edward J. McElroy, Robert Mueller, and others, for their role in the violation of his constitutional, civil and international human rights. Defendants conspired

with officials in the Syrian government and/or aided and abetted Syrian government officials in their plan to arbitrarily detain, interrogate and torture Mr. Arar. Defendants intentionally detained Mr. Arar and then removed him to Syria so that Syrian authorities could interrogate him under torture. Further or in the alternative, Defendants knew or ought reasonably to have known that by removing Mr. Arar to Syria there was a substantial likelihood that he would be subjected to torture. Defendants' conduct violates the Torture Victim Protection Act, the Fifth Amendment to the United States Constitution, and treaty law.

4. Prior to his removal, Defendants John Ashcroft, Larry D. Thompson, J. Scott Blackman, Edward J. McElroy, Robert Mueller, and others, unlawfully detained and interrogated Mr. Arar for thirteen days. During this time, Defendants denied Mr. Arar effective access to consular assistance, the courts, his lawyer, and family members. While confined, Defendants also subjected Mr. Arar to coercive and involuntary interrogation designed to overcome his will and compel incriminating statements from him. These interrogations were conducted for excessively long periods of time and at odd hours of the day and night. While in detention, Mr. Arar was subjected to unreasonable and excessively harsh conditions. He was held in solitary confinement, chained and shackled, subjected to invasive strip-searches, and deprived of sleep and food for extended periods of time. By their actions Defendants Ashcroft, Thompson, Blackman, McElroy, Mueller, and others, violated rights guaranteed to Mr. Arar under the Fifth Amendment to the United States Constitution and treaty law.

5. Mr. Arar seeks a judgment declaring that Defendants' actions, and those of all persons acting on their behalf including their agents and/or employees are illegal and violate Mr. Arar's constitutional, civil, and human rights. Mr. Arar also seeks a declaration that his

detention in the United States and the decision to remove him to Jordan and Syria were unjustified, unconstitutional, unlawful and without probable cause to believe that he was a member of or had any involvement with Al Qaeda or any other terrorist organization.

6. Mr. Arar also seeks compensatory and punitive damages for violations of his constitutionally and internationally protected rights.

JURISDICTION AND VENUE

7. This Court has jurisdiction under 28 U.S.C. § 1331 (federal question jurisdiction), 28 U.S.C. § 1350, note (the Torture Victim Protection Act), 5 U.S.C. §§ 551, 559 (Administrative Procedure Act), and 28 U.S.C. §§ 2201 and 2202 (the Declaratory Judgment Act).

8. This action is brought pursuant to the Torture Victim Protection Act. It is also an action brought directly under the Fifth Amendment to the United States Constitution and treaty law.

9. Venue is proper in the United States District Court for the Eastern District of New York pursuant to 28 U.S.C. § 1391(b) in that a substantial part of the events giving rise to Mr. Arar's claims occurred in this District.

JURY DEMAND

10. Mr. Arar demands trial by jury in this action on each and every one of his claims.

PARTIES

11. Plaintiff MAHER ARAR is a 33 year old citizen of Canada. He currently resides in Ottawa, Canada. He and his parents came to Canada from Syria when he was seventeen years old. Mr. Arar obtained his Bachelors degree from McGill University, Montreal and his Masters

degree in telecommunications from INRS-Telecommunications. Mr. Arar met his wife, Monia Mazigh, a Canadian citizen born in Tunisia, at McGill University, and they were married in 1994. They have two young children.

12. Since 1999, Mr. Arar has been employed by or worked on a consultancy basis with MathWorks, a high-tech firm based in Massachusetts with clients all over the world, including the United States. Mr. Arar has substantial connections with the United States. At all material times, he had federal authorization to work in the United States. Mr. Arar lived in Boston when he was an employee of Mathworks. Mr. Arar has relatives and friends who live in the United States. Mr. Arar wishes to return to the United States for work and to visit relatives and friends but is prevented from doing so by the immigration order prohibiting his return.

13. Prior to the incidents complained of herein, Mr. Arar had never experienced any difficulties with either United States or Canadian authorities and had never been arrested. Mr. Arar is neither a member of nor involved with Al Qaeda or any other terrorist organization. Mr. Arar has never knowingly associated himself with terrorists, terrorist organizations or terrorist activity.

14. Defendant JOHN ASHCROFT is the Attorney General of the United States. In this capacity, Defendant Ashcroft, at the time of the actions complained of herein, had ultimate responsibility for the implementation and enforcement of United States immigration laws. Defendant Ashcroft was responsible for making the decision to remove Mr. Arar to Jordan and Syria. Conspiring with and/or aiding and abetting Defendants Thompson, Blackman, McElroy, Mueller, and others, as well as with Syrian government officials, Defendant Ashcroft removed Mr. Arar to Syria so that Syrian authorities would interrogate him in ways that they believed

themselves unable to do directly, including the use of torture. Further, or in the alternative, Defendant Ashcroft removed Mr. Arar to Syria knowing that Mr. Arar would be in danger of being subjected to torture there. Defendant Ashcroft is sued in his official and individual capacities.

15. Defendant LARRY D. THOMPSON was Acting Attorney General when the unlawful actions complained of herein took place. In this capacity, Defendant Thompson signed the order removing Mr. Arar to Syria. Conspiring with and/or aiding and abetting Defendants Ashcroft, Blackman, McElroy, Mueller, and others, as well as Syrian government officials, Defendant Thompson removed Mr. Arar to Syria so that Syrian authorities would interrogate him in ways that they believed themselves unable to do directly, including the use of torture. Further, or in the alternative, Defendant Thompson removed Mr. Arar to Syria knowing that Mr. Arar would be in danger of being subjected to torture there. Defendant Thompson is sued in his individual capacity.

16. Defendant TOM RIDGE is the Secretary of State for Homeland Security. In this capacity, Defendant Ridge is currently responsible for the implementation and enforcement of United States immigration laws. Defendant Ridge is sued in his official capacity.

17. Defendant JAMES W. ZIGLAR was the Commissioner of the Immigration and Naturalization Services at the time the unlawful actions complained of herein took place. At all material times, Defendant Ziglar had responsibility for the implementation and enforcement of United States immigration laws. He was the INS's chief executive officer. Conspiring with and/or aiding and abetting Defendants Ashcroft, Thompson, Blackman, McElroy, Mueller, and others, as well as Syrian government officials, Defendant Ziglar removed Mr. Arar to Syria so

that Syrian authorities would interrogate him in ways that they believed themselves unable to do directly, including the use of torture. Further, or in the alternative, Defendant Ziglar removed Mr. Arar to Syria knowing that Mr. Arar would be in danger of being subjected to torture there. Defendant Ziglar failed to consider the provisions of Article 3 of CAT, as required by 8 C.R.F. §235.8(b)(4), in making the decision to remove Mr. Arar to Syria. Defendant Ziglar is sued in his individual capacity.

18. Defendant J. SCOTT BLACKMAN was Regional Director of the Immigration and Naturalization Services for the Eastern District when the unlawful actions complained of herein took place. In this capacity, Defendant was responsible for ensuring that proper consideration was given to Article 3 of CAT as required by 8 C.R.F. §235.8(b)(4). Conspiring with and/or aiding and abetting Defendants Ashcroft, Thompson, McElroy, Mueller, and others, as well as Syrian government officials, Defendant Blackman removed Mr. Arar to Syria so that Syrian authorities would interrogate him in ways that they believed themselves unable to do directly, including the use of torture. Further, or in the alternative, Defendant Blackman removed Mr. Arar to Syria knowing that Mr. Arar would be in danger of being subjected to torture there. Defendant Blackman failed to properly consider the provisions of Article 3 of CAT as required by INA regulations in making the decision to remove Mr. Arar to Syria. Defendant Blackman is being sued in his individual capacity.

19. Defendant PAULA CORRIGAN is currently Regional Director of U.S. Immigration and Customs Enforcement for the Eastern Region. In this capacity, Defendant Corrigan is responsible for ensuring that proper consideration is given to Article 3 of CAT as

required by 8 C.R.F. §235.8(b)(4) in deciding whether to remove persons from the United States. Defendant Corrigan is being sued in her official capacity.

20. Defendant EDWARD J. McELROY was formerly District Director for the Immigration and Naturalization Services for the New York City District and is presently District Director of U.S. Immigration and Customs Enforcement. In these capacities, Defendant McElroy was, and is responsible for the enforcement of customs and immigration laws in the New York City area. Conspiring with and/or aiding and abetting Defendants Ashcroft, Blackman, Mueller, and others, as well as Syrian government officials, Defendant McElroy removed Mr. Arar to Syria so that Syrian authorities would interrogate him in ways that they believed themselves unable to do directly, including the use of torture. Further, or in the alternative, Defendant McElroy removed Mr. Arar to Syria knowing that Mr. Arar would be in danger of being subjected to torture there. Defendant McElroy is sued in his individual capacity.

21. Defendant ROBERT MUELLER is the Director of the Federal Bureau of Investigation. In this capacity, Defendant Mueller is responsible for law enforcement operations in the United States, including counter-terrorism operations. Conspiring with and/or aiding and abetting Defendants Ashcroft, Thompson, Blackman, McElroy, and others, as well as Syrian government officials, Defendant Mueller removed Mr. Arar to Syria so that Syrian authorities would interrogate him in ways that they believed themselves unable to do directly, including the use of torture. Further, or in the alternative, Defendant Mueller removed Mr. Arar to Syria knowing that Mr. Arar would be in danger of being subjected to torture there. Defendant Mueller is sued in his individual and official capacities.

22. Defendants JOHN DOE 1-10 are federal law enforcement agents who are employed by the FBI or the INS. Singly or collectively, the Doe Defendants have subjected Mr. Arar to coercive and involuntary custodial interrogation and unreasonably harsh and punitive conditions of detention. The Doe Defendants are being sued in their individual capacities.

STATEMENT OF FACTS

Background

23. The United States Department of State (“State Department”) has long regarded Syria as a systematic practitioner of torture. The State Department lists Syria as a state sponsor of terrorism, and, for at least the past ten years, State Department Human Rights Country Reports on Syria have documented that the Syrian government practices torture. The most recent State Department report on Syria issued in March 2003, found, for example, that:

there was credible evidence that security forces continued to use torture, although to a lesser extent than in previous years. Former prisoners, detainees, and the London-based Syrian Human Rights Organization reported that torture methods included administering electrical shocks; pulling out fingernails; forcing objects into the rectum; beating, sometimes while the victim is suspended from the ceiling; hyperextending the spine; bending the detainees into the frame of a wheel and whipping exposed body parts; and using a chair that bends backwards to asphyxiate the victim or fracture the victim’s spine. . . . Although it occurs in prison, torture was most likely to occur while detainees were being held at one of the many detention centers run by the various security services throughout the country, especially while the authorities were attempting to extract a confession or information.

U.S. Dept. of State, Bureau Of Democracy, Human Rights, and Labor, *Country Reports on Human Rights Practices – 2002: Syria* § 1c (Mar. 31, 2003) (Exhibit A attached to this complaint). More recently, President Bush publicly condemned Syria dictators for “a legacy of torture, oppression, misery and ruin.” *Remarks by the President at the 20th Anniversary of the*

National Endowment for Democracy, United States Chamber of Commerce, Washington D.C., November 6, 2003 (Exhibit B attached to this complaint).

24. On information and belief, since September 11, 2001, the United States has undertaken covert “extraordinary renditions,” removing non-U.S. citizens detained in this country and elsewhere and suspected -- reasonably or unreasonably -- of terrorist activity to countries, including Syria, where interrogations under torture are routine. The Federal officials who have adopted, ratified, and/or implemented the “extraordinary renditions” policy know full well that non-U.S. citizens removed under this policy will be interrogated under torture. On information and belief, U.S. officials remove these non-U.S. citizens to countries like Syria precisely because those countries can and do use methods of interrogation to obtain information from detainees that would not be morally acceptable or legal in the United States and other democracies. Indeed, these officials have facilitated such human rights abuses, exchanging dossiers with intelligence officials in the countries to which non-U.S. citizens are removed. *See e.g.*, Rajiv Chandrasekaran and Peter Finn, *U.S. Behind Secret Transfer of Terrorist Suspects*, WASH. POST, March 11, 2002 at A01; Dana Priest and Barton Gellman, *U.S. Decries Abuse but Defends Interrogations*, WASH. POST, Dec. 26, 2002, at A01; Sebastian Rotella, *Key to U.S. Case Denies Iraq-Al Qaeda Link*, L.A. TIMES, Feb. 1, 2003, at A01; DeNeen Brown and Dana Priest, *Deported Syrian Suspect Details Torture in Syria*, WASH. POST, Nov. 5, 2003 at A01 (Exhibit C attached to this complaint).

Facts Specific to Plaintiff

25. While on a family vacation in Tunisia in late September 2002, Mr. Arar received an e-mail from his former employer, MathWorks, asking him to return to Ottawa to consult with

a prospective client. On September 25, 2002, Mr. Arar took a flight to Zurich, leaving his wife and two children behind to continue their vacation. After stopping overnight in Zurich, he boarded a flight to Montreal, with a transfer stop at John F. Kennedy Airport, New York (“JFK”).

26. At around noon, on September 26, 2002, Mr. Arar debarked at JFK in order to catch his connecting flight. He was not applying to enter the United States at this time. Mr. Arar presented his valid Canadian passport to the immigration inspector on duty. Upon entering Mr. Arar’s name into a computer, the inspector instructed Mr. Arar to wait nearby.

27. At about 2 p.m., an immigration officer fingerprinted and photographed Mr. Arar. Shortly thereafter, two uniformed men searched Mr. Arar’s wallet, carry-on bags, and luggage, without his consent. Concerned that he would miss his connecting flight, Mr. Arar repeatedly asked to make a telephone call home. His requests were ignored.

28. At around 4 p.m., three or four men arrived in the area where Mr. Arar was being detained. One told Mr. Arar that he wanted to ask him some questions. He assured Mr. Arar that he would be permitted to make his connecting flight after answering the questions. When Mr. Arar asked if he could call a lawyer, he was told that only U.S. citizens were entitled to lawyers.

29. Mr. Arar was then interrogated for approximately five hours by an FBI agent. The agent constantly yelled and swore at Mr. Arar, calling him a “fucking smart guy” with a “fucking selective memory.” When Mr. Arar took more than a few seconds to respond to the rapid-fire questions, the agent became angry.

30. Referring to an undisclosed report, the FBI agent interrogating Mr. Arar questioned him about his work and travel in the United States and his relationships with certain

individuals including, in particular, Mr. Abdullah Almalki. Mr. Arar explained that Mr. Almalki was a casual acquaintance of his from Ottawa. In 1997, Mr. Almalki had witnessed an apartment rental agreement signed by Mr. Arar. Mr. Arar had last seen Mr. Almalki in October 2001 when they had lunch together.

31. Following the five-hour interrogation, Mr. Arar was questioned for another three hours, this time by an immigration officer who asked Mr. Arar about his membership in or affiliation with various terrorist groups. Mr. Arar vehemently denied any such membership or affiliation. That interrogation ended at about midnight.

32. Mr. Arar then was chained and shackled, put in a vehicle, and driven to another building at JFK, where he was placed in solitary confinement. There was no bed. The lights remained on all night. Mr. Arar did not sleep at all.

33. The next morning, September 27, 2002, beginning at about 9 a.m., two FBI agents interrogated Mr. Arar for about five hours, asking him about Osama Bin Laden, Iraq, and Palestine, among other things. During the interrogation, the agents constantly yelled and swore at Mr. Arar. Mr. Arar vehemently denied any connection to terrorists or terrorist activity. He repeatedly asked to see a lawyer and to make a telephone call but these requests were ignored.

34. At about 2 p.m., Mr. Arar was taken back to his cell and chained and shackled. He was given a cold McDonalds meal -- his first food in almost two days.

35. Early that evening, an immigration officer came to Mr. Arar's cell. He asked that Mr. Arar "volunteer" to be sent to Syria. Mr. Arar refused, insisting that he be sent to Canada or Switzerland. Angered by this response, the officer stated that the United States government had a "special interest" in Mr. Arar. The officer instructed Mr. Arar to sign a form. Even though Mr.

Arar was not allowed to read the form, he signed it, fearing adverse consequences if he did not do so.

36. Later that evening, Mr. Arar was taken from his cell in chains and shackles, put in a vehicle, and driven from JFK to the Metropolitan Detention Center, a federal detention facility located in Brooklyn, New York (“MDC”). There he was strip searched, given an orange jumpsuit to wear, and placed in solitary confinement in a small cell.

37. Over the next three days, until October 1, 2002, Mr. Arar repeatedly asked to see a lawyer and make a telephone call but these requests were ignored.

38. On October 1, 2002, an MDC official handed Mr. Arar a document stating that the INS had found him inadmissible in the United States because he belonged to an organization designated by the Secretary of State as a Foreign Terrorist Organization, namely, Al Qaeda. Mr. Arar was never given a meaningful opportunity to contest this finding.

39. The same day, Mr. Arar finally was permitted to make a telephone call. He called his mother-in-law in Ottawa, Canada. Since September 26, 2002, Mr. Arar’s family had been frantically searching for him. Upon learning that he was detained at MDC, they contacted the Office for Canadian Consular Affairs, which had not been informed by the United States of Mr. Arar’s detention. They also retained Ms. Amal Oummih, a New York City immigration attorney.

40. On October 3, 2002, Mr. Arar was visited by Maureen Girvan from the Canadian Consulate. Mr. Arar showed Ms. Girvan the document finding him inadmissible in the United States. He expressed concern that he might be removed to Syria. Ms. Girvan assured Mr. Arar that could not happen, noting that he was a Canadian citizen.

41. The next day, October 4, 2002, two immigration officers visited Mr. Arar’s cell.

They asked him to designate in writing the country to which he wished to be removed. Mr. Arar designated Canada.

42. On the evening of Saturday, October 5, 2002, Mr. Arar was visited by Ms. Oummih, who had requested permission from the MDC Warden the day before to meet with Mr. Arar.

43. Late the next evening, Sunday, October 6, 2002, Mr. Arar was taken in chains and shackles to a room where approximately seven INS officials questioned him about his opposition to removal to Syria. Mr. Arar had no prior notice of this interrogation. The only notice given Ms. Oummih was a message left by Defendant McElroy, District Director for Immigration and Naturalization Services for New York City, on her voice mail at work that same evening. Ms. Oummih did not retrieve the message until she arrived at work the next day, Monday morning, October 7, 2002 – long after Mr. Arar’s interrogation had ended.

44. Initially, Mr. Arar told his interrogators that he would not answer questions without Ms. Oummih. He reluctantly changed his mind only after being falsely told by his interrogators that Ms. Oummih chose not to attend the session. Mr. Arar told his interrogators that he feared that if he was removed to Syria, he would be tortured. Mr. Arar fully substantiated his claims about the likelihood of being tortured there.

45. The interrogation lasted for six hours, until the very early morning of October 7, 2002. Throughout the interrogation, Mr. Arar was informed that his interrogators were discussing the issue with “Washington D.C.” At the conclusion of the interrogation, although no decision was related to Mr. Arar, Mr. Arar was asked to sign what appeared to be a transcript. He declined to do so. Mr. Arar was taken back to his cell in chains and shackles.

46. On the morning of October 7, 2002, Ms. Oummih received a call from an INS official falsely notifying her that Mr. Arar had been taken to the INS's Varick Street offices "for processing" en route to a detention facility in New Jersey. Later that day, she received another call from an INS official falsely notifying her that Mr. Arar had arrived at the New Jersey detention facility. Ms. Oummih was told to call back the next day for the exact location. In fact, Mr. Arar remained at MDC for this entire period.

47. Early on October 8, 2002, at about 4 a.m., Mr. Arar was taken in chains and shackles to a room where two INS officials told him that, based on Mr. Arar's casual acquaintance with certain named individuals, including Mr. Almalki as well as classified information, Defendant Blackman, Regional Director for the Eastern Region of Immigration and Naturalization Services, had decided to remove Mr. Arar to Syria. Without elaboration, Defendant Blackman also stipulated that Mr. Arar's removal to Syria would be consistent with Article 3 of CAT. When Mr. Arar repeated his concerns about torture, the officials present simply stated that the INS is not governed by the "Geneva Convention." They further told Mr. Arar that he was barred from re-entering the United States for five years. (A copy of Defendant Blackman's decision is attached as Exhibit D.)

48. On information and belief, Defendant Thompson, Deputy Attorney General, in his capacity as Acting Attorney General, signed an order on or about October 8, 2002, removing Mr. Arar to Syria.

49. After the interrogation, Mr. Arar was taken from MDC in chains and shackles to a New Jersey airfield, placed on a small private jet, and flown to Washington, D.C. From there, Mr. Arar was flown to Amman, Jordan, where he was turned over to Jordanian authorities on October 9, 2002. On information and belief, Syrian officials refused to accept Mr. Arar directly

from the United States.

50. After interrogating and beating him, on or about October 9, 2002, Jordanian authorities turned Mr. Arar over to Syrian authorities. For the next 10 months, until about August 19, 2003, Mr. Arar was detained in the Palestine Branch of Syrian Military Intelligence (“the Palestine Branch”).

51. For the first 12 days of his detention in Syria, Mr. Arar was interrogated for 18 hours per day. He was also subjected to physical and psychological torture. Syrian security officers regularly beat him on the palms, hips, and lower back, using a two-inch thick electric cable. They also regularly struck Mr. Arar in the stomach, face, and back of the neck with their fists. The pain was excruciating. Mr. Arar pleaded with them to stop, to no avail.

52. Syrian security officers continued also subjected Mr. Arar to severe psychological torture. They placed him in a room where he could hear the screams of other detainees being tortured. They also repeatedly threatened to place him in the spine-breaking “chair,” hang him upside down in a “tyre” and beat him, and give him electric shocks.

53. To minimize the torture, Mr. Arar falsely confessed, among other things, to having trained with terrorists in Afghanistan. In fact, Mr. Arar has never been to Afghanistan and has never been involved in terrorist activity.

54. The questions asked Mr. Arar by Syrian security officers in the Palestine Branch bore a striking similarity to those asked Mr. Arar by FBI agents at JFK in September, 2002. As with the FBI agents, Syrian security officers focused on Mr. Arar’s relationship with certain individuals, including in particular, Abdullah Almalki.

55. On information and belief, Defendants provided their Syrian counterparts with a

dossier on Mr. Arar, compiled in part from the interrogations at JFK. On information and belief, Defendants suggested matters to be covered by Syrian security officers during Mr. Arar's interrogation. On information and belief, Defendants handed over Mr. Arar to Syrian officials intending that they interrogate him under torture or knowing full well that Mr. Arar would be tortured during those interrogations.

56. On information and belief, Syrian security officers turned over to the Defendants all information coerced from Mr. Arar during his interrogations under torture in Syria. A Syrian official familiar with Mr. Arar's case stated that during Mr. Arar's detention in Syria, the Syrian government shared information gleaned from its interrogation and investigation of Mr. Arar with the United States government. *See* 1/21/04 transcript of CBS's Sixty Minutes II: "His Year In Hell" (Exhibit E attached to this complaint).

57. On information and belief, United States officials removed Mr. Arar to Syria so that Syrian security officers could interrogate him under torture and thereby obtain information for United States counter-terrorism operations. On information and belief, United States officials removed Mr. Arar to Syria under the above "extraordinary rendition" policy.

58. When not being interrogated, Mr. Arar was placed in a tiny underground cell, measuring approximately six feet long, seven feet high, and three feet wide -- hardly enough room to even move. The cell was damp and cold, especially during the winter months. The only light came through a small aperture in the ceiling above -- an aperture which rats ran across and through which cats often urinated onto Mr. Arar.

59. Sanitary conditions were almost non-existent. Mr. Arar was allowed to bathe -- in cold water -- only once a week. He was not permitted to exercise. The food was barely edible. While detained at the Palestine Branch, Mr. Arar lost approximately 40 pounds.

60. The intensive interrogations and severe physical beatings of Mr. Arar ceased on or about October 20, 2002, the same day that the Canadian Embassy officials in Syria inquired about Mr. Arar. The next day, Syrian officials confirmed to Canadian Embassy officials that Mr. Arar was in their custody. United States officials had refused even to acknowledge to Ms. Oummih, Mr. Arar's immigration attorney, or to Ms. Girvan, the Canadian Consulate staff person who visited Mr. Arar at MDC, that Mr. Arar had been removed to Syria.

61. Between October 23, 2002 and August 14, 2003, Syrian officials allowed Canadian Consular officials to visit Mr. Arar on seven occasions. Prior to each visit, Syrian security officers threatened Mr. Arar with additional torture if he complained about his mistreatment to his visitors. Mr. Arar complied until August 14, 2003. On that date, unable to bear the mistreatment any longer, Mr. Arar yelled out to a Canadian Consular official that he had been tortured and was being kept in a grave.

62. Approximately five days later, Mr. Arar was briefly transferred to the Syrian Military Intelligence's Investigations Branch. Prior to the transfer, Mr. Arar was forced to sign a false confession that he had undertaken terrorist training in Afghanistan. From the Investigation Branch, Mr. Arar was transferred to Sednaya Prison, an overcrowded Syrian prison facility where Mr. Arar remained for about six weeks.

63. On September 28, 2003, Mr. Arar was transferred back to the Palestine Branch. He was held in solitary confinement for a week. During this time, Mr. Arar was confined in a room where, day and night, he could hear detainees screaming from torture.

64. On October 5, 2003, Mr. Arar was taken to the Syrian Supreme State Security Court. There, a prosecutor told him that he would be released without criminal charges. That

same day, Mr. Arar was released into the custody of Canadian Embassy officials in Damascus, Syria.

65. According to Imad Moustapha, Syria's highest-ranking diplomat in Washington, Syrian officials investigated every link and relationship in order to uncover a connection between Mr. Arar and Al Qaeda, but could find no such connection. Mr. Moustapha said that Syria eventually released Mr. Arar because Syria wanted to make "a gesture of goodwill to Canada," and because Syrian officials "could not substantiate any of the allegations against him." Syria now considers Mr. Arar completely innocent. (*See Exhibit E*).

66. On October 6, 2003, Mr. Arar returned home to Ottawa to his family whom he had not seen in more than a year.

67. Mr. Arar continues to suffer the effects of his ordeal. He still experiences difficulties relating to his wife and two young children. He frequently has nightmares about his treatment in the United States and Syria. People continue to call him a terrorist. The publicity surrounding his situation has made finding employment particularly difficult. His employment prospects have been further undermined by his inability to travel to the United States.

GENERAL ALLEGATIONS

68. Mr. Arar's treatment, including his torture in Jordan and Syria, was inflicted under color of law and under color of official authority, and/or in conspiracy with or on behalf of those acting under color of official authority.

69. At all relevant times, the Defendants were part of a conspiracy to interrogate Mr. Arar under torture. Other conspirators, including unnamed Jordanian and Syrian officials, planned and effected the aforementioned torture, together with the Defendants named herein.

70. At all relevant times, the Defendants acted in concert with unnamed Jordanian and Syrian officials so as to effect the torture described herein.

71. Defendants are liable for the acts of described herein in that Defendants directed, ordered, confirmed, acquiesced or conspired and/or aided and abetted in bringing them about.

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF (Torture Victim Protection Act: Prohibition Against Torture)

72. Plaintiff incorporates by reference each and every allegation contained in the preceding paragraphs as if set forth fully herein.

73. The acts described herein constitute a violation of the right not to be tortured under color of foreign law. Violation of this right is actionable under the Torture Victim Protection Act, 28 U.S.C. § 1350, note.

74. Defendants Ashcroft, Thompson, Ziglar, Blackman, McElroy, Mueller, and others, are liable for said conduct in that acting in concert with unnamed Jordanian and Syrian officials they conspired in and/or aided and abetted in bringing about the violations of Plaintiff's right not to be tortured under color of Syrian law.

75. As a proximate result of Defendants' unlawful conduct, Plaintiff has suffered physical harm, emotional distress, and economic loss.

SECOND CLAIM FOR RELIEF (Fifth Amendment: Substantive Due Process - Torture)

76. Plaintiff incorporates by reference each and every allegation contained in the preceding paragraphs as if set forth fully herein.

77. Defendants agreed amongst themselves and with unnamed Syrian officials to

deport Plaintiff to Syria for the purpose coercive interrogation and torture in that country. In furtherance of their agreements, Defendants detained Plaintiff, denied him access to counsel, the courts, and his consulate, and used government resources to transfer Plaintiff to Syrian custody. By conspiring to consign and transport Plaintiff to Syria for the purposes of interrogation and torture there, Defendants, acting under color of law and their authority as federal officers, intentionally subjected Plaintiff to torture and coercive interrogation, taking his liberty without due process of law in violation of the Fifth Amendment to the Constitution.

78. At the time they seized Plaintiff and subsequently transported him to Syria, Defendants were fully aware of the policy of state-sponsored torture in that country and of Syria's plan to interrogate Plaintiff under torture, and knowingly gave substantial assistance to the Syrian government's plan by detaining Plaintiff, denying him access to counsel, the courts, and his consulate, and by using government resources to transfer him to Syria. By aiding and abetting Syria's plan to interrogate Plaintiff under torture, Defendants, acting under color of law and their authority as federal officers, knowingly or recklessly subjected Plaintiff to torture and coercive interrogation, taking his liberty without due process of law in violation of the Fifth Amendment to the Constitution.

79. By arbitrarily detaining Plaintiff and transporting him to Syria for interrogation and torture there, Defendants entered into a special relationship with Plaintiff and then placed Plaintiff in a position more vulnerable to danger than he would have been had Defendants not acted as they did. By doing so, Defendants, acting under color of law and their authority as federal officers, intentionally or recklessly subjected Plaintiff to torture and coercive interrogation, taking his liberty without due process of law in violation of the Fifth Amendment to the Constitution.

80. The harms that Plaintiff suffered were foreseeable to Defendants.

81. Plaintiff has no effective means of enforcing his Fifth Amendment due process rights other than by seeking declaratory and other relief from the Court.

82. As a proximate result of Defendants' unlawful conduct, Plaintiff has suffered physical harm, emotional distress, and economic loss.

THIRD CLAIM FOR RELIEF
(Fifth Amendment: Substantive Due Process - Detention)

83. Plaintiff incorporates by reference each and every allegation contained in the preceding paragraphs as if set forth fully herein.

84. Defendants agreed amongst themselves and with Syrian officials to deport Plaintiff to Syria for the purpose arbitrary, indefinite detention in that country. In furtherance of their agreements, Defendants detained Plaintiff, denied him access to counsel, the courts, and his consulate, and used their own resources to transfer Plaintiff to Syrian custody. By conspiring to consign and transport Plaintiff to Syria for the purposes of arbitrary, indefinite detention there, Defendants, acting under color of law and their authority as federal officers, intentionally subjected Plaintiff to arbitrary, indefinite detention, taking his liberty without due process of law in violation of the Fifth Amendment to the Constitution.

85. At the time they seized Plaintiff and subsequently transported him to Syria, Defendants were fully aware of Syria's practice of arbitrary and indefinite detention without trial and of Syria's plan to arbitrarily detain Plaintiff without trial there, and knowingly gave substantial assistance to the Syrian government's plan by detaining Plaintiff denying him access to counsel, the courts, and his consulate and by using government resources to transport him to Syria. By aiding and abetting Syria's plan to arbitrarily detain Plaintiff, Defendants, acting

under color of law and their authority as federal officers, knowingly or recklessly subjected Plaintiff to arbitrary detention without trial, taking his liberty without due process of law in violation of the Fifth Amendment to the Constitution.

86. By arbitrarily detaining Plaintiff and rendering him to Syria for arbitrary and indefinite detention without trial there, Defendants entered into a special relationship with Plaintiff and placed him in a position more vulnerable to danger than he would have been had Defendants not acted as they did. By doing so, Defendants, acting under color of law and their authority as federal officers, intentionally or recklessly subjected Plaintiff to arbitrary, indefinite detention without trial, taking his liberty without due process of law in violation of the Fifth Amendment to the Constitution.

87. The harms that Plaintiff suffered was foreseeable to the Defendants.

88. Plaintiff has no effective means of enforcing his Fifth Amendment due process rights other than by seeking declaratory and other relief from the Court.

89. As a proximate result of Defendants' unlawful conduct, Plaintiff has suffered physical harm, emotional distress, and economic loss.

FOURTH CLAIM FOR RELIEF
(Fifth Amendment: Substantive Due Process – Domestic Detention)

90. Plaintiff incorporates by reference each and every allegation contained in the preceding paragraphs as if set forth fully herein.

91. By subjecting Plaintiff to outrageous, excessive, cruel, inhuman, and degrading conditions of confinement, Defendants, acting under color of law and their authority as federal officers, intentionally or recklessly subjected Plaintiff to arbitrary detention, taking his liberty without due process of law in violation of the Fifth Amendment to the Constitution.

92. By subjecting Plaintiff to coercive and involuntary custodial interrogation designed to overcome his will and compel incriminating statements from him, Defendants, acting under color of law and their authority as federal officers, intentionally or recklessly violated Plaintiff's right to due process under the Fifth Amendment to the Constitution.

93. By subjecting Plaintiff to a "communications blackout" and other measures while in custody that interfered with his access to lawyers and the courts, Defendants, acting under color of law and their authority as federal officers, intentionally or recklessly violated Plaintiff's right to obtain access to legal counsel and to petition the courts for redress of his grievances, and his right to due process under the Fifth Amendment to the Constitution.

94. Plaintiff has no effective means of enforcing his Fifth Amendment due process rights other than by seeking declaratory and other relief from the Court.

95. As a proximate result of Defendants' unlawful conduct, Plaintiff has suffered physical harm, emotional distress, and economic loss.

PRAYER FOR RELIEF

WHEREFORE, Mr. Arar respectfully requests that the Court enter a judgment:

1. Declaring that the actions of Defendants, their agents, and their employees, are illegal and violate Mr. Arar's constitutional, civil, and international human rights;
2. Awarding compensatory and punitive damages to Mr. Arar in an amount that is fair, just, and reasonable;
3. Awarding reasonable attorneys' fees and costs of suit, and
4. Ordering such further relief as the Court considers just and proper.

Dated: New York, New York
January 22, 2004

Respectfully submitted,

Center for Constitutional Rights

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