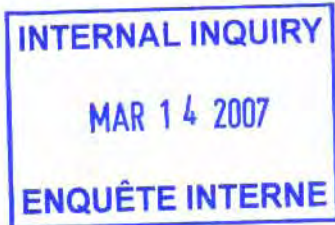


**International Civil Liberties  
Monitoring Group**



**(ICLMG)**

**MOTION**

**to the**

**INTERNAL INQUIRY INTO THE ACTIONS OF  
CANADIAN OFFICIALS IN RELATION TO  
ABDULLAH ALMALKI,  
AHMAD ABOU-ELMAATI  
AND MUAYYED NUREDDIN**

**March 14, 2007**

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IN THE MATTER OF  
THE INTERNAL INQUIRY INTO THE ACTIONS OF CANADIAN OFFICIALS IN  
RELATION TO ABDULLAH ALMALKI, AHMAD ABOU-ELMAATI AND  
MUAYYED NUREDDIN,

MOTION  
REGARDING  
THE APPLICATION OF THE  
INTERNATIONAL CIVIL LIBERTIES MONITORING GROUP (ICLMG)  
FOR  
PARTICIPATION AND FUNDING

1. By means of this motion, the International Civil Liberties Monitoring Group (ICLMG) applies for standing at the Internal Inquiry into the Actions of Canadian Officials in Relation to Abdullah Almalki, Ahmad Abou-Elmaati and Muayyed Nureddin, all in accordance with SECTION C, PARAGRAPHS 6 TO 12 of the Inquiry's Rules of Procedure and Practice Respecting Participation and Funding.

**ICLMG: THE ORGANIZATION AND ITS MANDATE**

2. The ICLMG is a pan-Canadian coalition of civil society organizations that was established in the aftermath of the September 11, 2001 terrorist attack in the United States. The coalition brings together over thirty NGOs, unions, professional associations, faith groups, environmental organizations, human rights and civil liberties advocates, as well as groups representing immigrant and refugee communities in Canada (*See Annex I for a complete list of members*).
3. These organizations, active in the promotion and defense of rights within their own respective sector of Canadian society, came together to share their concerns about the impact of new anti-terrorism legislation and other counter terror measures with

regards to civil liberties, human rights, refugee protection, racism, political dissent, governance of charities, international cooperation and humanitarian assistance.

4. The ICLMG is a unique coalition in that it benefits both from the expertise of certain professional associations and from the input of civil society organizations who bring knowledge in various aspects related to civil rights as well as the reflection of citizens involved in those organizations.
5. The coalition is directed by a Steering Committee of 11 members and is administered by a national coordinator.
6. The mandate of the ICLMG is to defend the civil liberties and human rights set out in the Canadian Charter of Rights and Freedoms, federal and provincial laws (such as the Canadian Bill of Rights, the Canadian Human Rights Act, provincial Charter of Human Rights or Privacy legislation), and international human rights instruments (such as the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment).
7. Several ICLMG member organizations -- such as Amnesty International, the Canadian Council for Refugees and the Ligue des droits et libertés -- intervene frequently in proceedings before bodies that oversee the implementation of international human rights instruments, such as the Committee Against Torture (CAT) and the Human Rights Committee of the United Nations. On behalf of civil society, these organizations bring violations of fundamental rights to the attention of the oversight bodies and make recommendations, notably with respect to enforcing the prohibitions against torture and cruel, inhuman and degrading treatment.
8. Since its inception, ICLMG has served as a round-table for strategic exchange — including international and North/South exchange — among organizations and communities affected by the application of new international security (“anti-



- terrorist”) laws, and has provided a forum for reflection, joint analysis and cooperative action in response to Canada’s own anti-terrorist measures and their effects.
9. Another important aspect of the role of the ICLMG is the dissemination of information related to human rights in the context of counter-terrorism. This information is distributed to members of the coalition who in turn broadcast it to their own networks.
  10. Further to its mandate, the ICLMG has intervened in individual cases where there have been allegations of serious violation of civil liberties and human rights. The ICLMG has also intervened to contest proposed legislation, regulations and practices that contravene the Canadian Constitution, other Canadian laws and international human rights standards.
  11. In particular, the ICLMG has raised concerns about Canada’s anti-terrorism legislation and other counter-terrorism measures, the harmonization of our security policies with the United States, the problematics of information sharing between states, the lack of political oversight over RCMP security operations, the lack of transparency and accountability in the use of security certificates, the erosion of privacy rights, the lack of due process in the cases of Mohamed Harkat, Adil Charkaoui and others, and the false allegations against 21 Pakistanis under “Project Thread” in Toronto. *(See Annex II for a list of actions undertaken by ICLMG in relation with these concerns)*

### **ICLMG AND THE CASE OF MAHAR ARAR**

12. With respect to the case of Maher Arar, the ICLMG has been involved since the very beginning and constantly at every stage, that is from the moment of Mr. Arar’s disappearance to the call for a public inquiry.

13. In May 2003, the ICLMG began to collaborate with the New York based Centre for Constitutional Rights (CCR) in an attempt to find out what information Canadian authorities might have possessed that would have led to Mr. Arar's arrest and deportation by U.S. authorities. Specifically, the ICLMG facilitated the use of the Access to Information Act to seek such information.
14. In the summer and fall of 2003, the ICLMG participated in strategy discussions and meetings with Amnesty International and the Arar family to ensure the release of Maher Arar from Syria and secure his return to Canada.
15. On September 11, 2003, the ICLMG was represented by Flora MacDonald in a meeting with U.S. Embassy officials in Ottawa.
16. In October 2003, the ICLMG and several of its individual member organizations (including the Canadian Labour Congress, the Ligue des droits et libertés and many others) called upon the government for a public inquiry in the Arar case.

#### **ICLMG AND THE ARAR INQUIRY**

17. The ICLMG has consistently played an active and responsible role during every phase of the work of the Arar Commission.
  - a. We coordinated the participation of a coalition of intervenors comprised of ourselves, the Minority Advocacy and Rights Council and the Law Union of Ontario.
  - b. We prepared and submitted written and oral submissions, including :



- i. April 30, 2004 : Opening Submission, (oral, Warren Allmand and Denis Barrette);
  - ii. May 20, 2004 : Submission on the Rules of procedures (written);
  - iii. May 28, 2004 : Submission regarding the information and evidence that will be heard *in camera* for reasons of national security, national defense or international relations(written);
  - iv. June 14, 2004 : Opening Submission (written);
  - v. February 21, 2005 : Submission on the Policy Review (written);
  - vi. September 2005 : Submission to the Factual Inquiry (written);
  - vii. September 13, 2005 : Closing Submission (oral, Denis Barrette);
  - viii. November 11, 2005: Supplementary Submission on the Policy Review (written).
- c. Our submissions have been translated and are available in both official languages for intervenors and the Canadian public.
- d. We also recommended and supported the participation of one of our counsels, Mr. Warren Allmand, as an expert for the roundtable on oversight mechanisms held on June 10, 2005.
- e. Furthermore, along with a handful of other intervenors, we actively engaged the Arar Commission counsels and the Amicus Curiae, at various stages throughout the work of the Commission, in an effort to surmount difficulties that could have had a negative impact on the credibility of the Commission.
- f. To the best of our ability, either our coordinator (Roch Tassé) or one of our counsels (Warren Allmand and Denis Barrette) have attended the public hearings systematically in order to hear as much of the public evidence as possible with a view to preparing a relevant and informed final submission for the factual phase of the inquiry.

- g. Throughout the whole inquiry, we worked in coordination with a broader coalition of intervenors with a view to facilitating communication and nurturing exchanges with the Commissioner and counsels of the Arar Inquiry.

### **SUBSTANTIAL AND DIRECT INTEREST IN THE SUBJECT-MATTER**

18. The ICLMG has reviewed the Rules of Procedure and Practice of the Iacobucci Inquiry and we firmly believe that we have a substantial and direct interest in the subject-matter of the Inquiry.
19. The ICLMG's mandate and broad-based membership makes it an obvious choice to intervene before the Inquiry with a focus on the issues of policies and practices, but also with a role in raising questions of facts.
20. It is important that the ICLMG intervene to represent civil society as a whole so that all issues of importance are raised.
21. During *in camera*, and *ex-parte*, sessions foreseen in the Terms of Reference, it is important that the ICLMG be able to raise with the Inquiry counsel specific areas for questioning. Considering the character of this inquiry, it is likely that several hearings will be held *in camera* during which important, if not central, questions will be discussed. For human rights organizations who are members of the ICLMG, it is essential that questions be raised with regards to information sharing and safeguards to ensure that such information will not be used by foreign governments to systematically violate the fundamental rights of Canadian citizens.
22. It is important that organizations representing civil society be allowed to fully take part in the inquiry. The report of the Fact Finder, Professor Stephen J. Toope, has outraged Canadians. Civil society must be involved to assure that all factual issues are dealt with.

## REQUEST FOR FUNDING

23. The ICLMG is resourced solely by a burden-sharing approach of its members who contribute to a core budget of approximately \$100,000 for fiscal year 2006-07. The core budget covers staffing and office costs, costs of organizing, managing and facilitating group process, and a small budget for research, publications and public engagement initiatives. As is too often the case within the voluntary sector, our members are already over-stretched financially and have indicated that they are not in a position to make additional contributions to support the costs associated with the participation of the coalition in the inquiry. Consequently, the ICLMG does not have the financial and human resources to take part in the inquiry without adequate funding from the Commission.
24. The similar mandates and our experience working together in the Arar Inquiry and other matters of mutual interest make a coordinated approach to retaining joint legal counsel for ICLMG and the British Columbia Civil Liberties Association (BCCLA) the most efficient and wise allocation of resources.
25. Pursuant to Rules 13 to 15 of the Rules of Procedure and Practice Respecting Participation and Funding, the ICLMG in conjunction with the British Columbia Civil Liberties Association (BCCLA) seeks joint funding for legal counsel. The responsibilities for joint legal counsel would include legal and strategic advice, representation before the Iacobucci Inquiry and the preparation and advocacy of substantive submissions.

## CONCLUSION

26. We respectfully submit that the ICMLG has a genuine concern about the subject matter of the inquiry and has a particular perspective or expertise that may assist the Commissioner and consequently we request standing and participation.



27. We respectfully submit that ICMLG does not have sufficient financial resources to participate without funding and consequently we request that the ICLMG and the British Columbia Civil Liberties Association (BCCLA) be granted joint funding for legal counsel to make joint submissions to the Iacobucci Inquiry regarding all matters relevant to their participation at the Inquiry..

28. The ICMLG wishes to make oral submissions in support of the motion of participation and funding at the participation hearing on March 21, 2007.



29. The Counsel for the Applicant is Warren Allmand :

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30. The coordinator of ICMLG is Roch Tassé :

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**ALL OF WHICH IS RESPECTFULLY SUBMITTED BY**

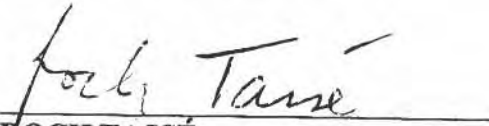
  
  
\_\_\_\_\_  
Warren Allmand  
Counsel for the Applicant

**AFFIDAVIT**


I, the undersigned, **ROCH TASSÉ**, residing at 346 Chemin Kennedy, in the Municipality of La Pêche and district of Maniwaki, Province of Québec, solemnly declare:

1. I am the coordinator of the applicant of this motion, the International Civil Liberties Monitoring Group (ICMLG), since its foundation, in August 2002;
2. I have read this motion in its entirety;
3. All the facts in this motion are true.

**AND I HAVE SIGNED**

  
**ROCH TASSÉ**

SOLEMNLY DECLARED BEFORE ME  
IN CHELSEA, PROVINCE OF QUÉBEC  
AT THIS 14th DAY OF MARCH 2007

  
**LAWYER MAUREEN WEBB**  
**COMMISSIONER OF OATHS**

## ANNEX I

### ICLMG MEMBERSHIP LIST

- Amnesty International
- Association québécoise des organismes de coopération internationale
- B.C. Freedom of Information and Privacy Association
- Canadian Arab Federation
- Canadian Association of University Teachers
- Canadian Auto Workers Union
- Canadian Council for International Co-operation
- Canadian Council for Refugees
- Canadian Council on American-Islamic Relations (CAIR-CAN)
- Canadian Ethnocultural Council
- Canadian Federation of Students
- Canadian Friends Service Committee
- Canadian Labour Congress
- Canadian Muslim Lawyers Association
- Canadian Union of Postal Workers
- Canadian Unitarians for Social Justice
- CARE Canada
- Centre for Social Justice
- Communications Energy and Paperworkers Union
- Confederation of Canadian Unions
- Council of Canadians
- CUSO
- David Suzuki Foundation
- Development and Peace
- ETC Group
- Greenpeace
- Imagine Canada
- International Development and Relief Foundation
- Inter Pares
- KAIROS
- Ligue des droits et libertés
- National Anti-Racism Council of Canada
- Ontario Council of Agencies Serving Immigrants
- PEN Canada
- Primate's World Relief and Development Fund
- Public Service Alliance of Canada
- Rights & Democracy
- United Steelworkers of America
- World Vision Canada



## ANNEX II

### **Actions undertaken by ICLMG in areas of concern**

- Since its creation, the ICLMG has expressed concerns that Canada's anti-terrorism agenda was driven by U.S. pressure to harmonize our security policies and practices, and by a desire on the part of security agencies to tap into new information technologies to increase police powers for regular police work, all of this in a context of diminishing transparency and political accountability.
- From the outset the ICLMG has called for a Parliamentary mechanism to monitor and review the impacts of anti-terrorism legislation, and for a political oversight mechanism over RCMP's operations, behavior, methods and internal criteria in the area of national security.
- The ICLMG has consistently argued that increasing integration of police operations with the U.S. security apparatus leads to a diminishing capacity of our Canadian government to protect the rights of Canadian citizens. The incremental implementation of the 30-point Smart Border Action Plan will exacerbate this worrisome trend.
- The ICLMG has consistently expressed concern and been involved in the problematics of information sharing between states, and has recently created a working group to examine further the ramifications of such practices.
- In a press release to announce its existence, ICLMG called on the government to set up a special Parliamentary committee to review all post 9/11 legislation (November 7, 2002).

- In a letter to the Government House Leader (Don Boudria), dated November 7, 2002, the ICLMG asked for the creation of a Parliamentary special committee to review the impact and implications of Canada's anti-terrorism laws. It expressed a series of concerns, including the diminishing role and influence of democratic institutions and the temptation to move toward an increasing lack of transparency in our governance processes.
- On December 18, 2002, in a press release on the arrest of Mohamed Harkat, the ICLMG opposed the use of security certificates and secret trials because of lack of transparency and accountability. It expressed concern that the lack of due process and basic fairness could become the norm in cases involving individuals and organizations with alleged links to terrorism.
- On January 28, 2003 the ICLMG made a presentation to the House of Commons Legislative Committee on Bill C-17 (Public Safety Act). It expressed concern that certain sections of the bill, related to gathering and sharing of information, especially with foreign governments, violate privacy rights of Canadians and can lead to the erosion of fundamental rights and freedoms.
- On January 30, 2003, in a press release to support Canada's Privacy Commissioner's concerns over Bill C-17, the ICLMG expressed concern that counter-terrorism measures adopted by Canada are being used to increase powers of police and the state for purposes other than the fight against terrorism, and violate privacy rights of Canadians, especially with regards to information gathering and information sharing in response to U.S. pressure.
- On May 14, 2003, the ICLMG launched a report titled *In the Shadow of the Law*. The report called on the government to create a Parliamentary oversight mechanism of Canada's antiterrorism agenda. It raised concerns over potential abuses of civil liberties, racism and racial profiling. It also cautioned that the that

lack of due process opens the door to discretionary and non-accountable behavior by government and/or security agencies.

- On May 27, 2003, the ICLMG issued a press release to oppose the use of security certificate in the case of Adil Charkaoui.
- On October 7, 2003, the ICLMG issued a press release reiterating its request for a public inquiry in the Arar case and to express concern about the lack of Parliamentary oversight over the RCMP's national security operations. The ICLMG also raised concern over the quality of RCMP's intelligence gathering and investigative methods, especially in aftermath of "Project Thread" in Toronto in which 21 Pakistanis were originally falsely accused of links with terrorism.
- On December 18, 2003, the ICLMG addressed a letter to Prime Minister Paul Martin to support the creation of a new Standing Committee for Parliamentary oversight over security issues, to applaud the creation of a review mechanism for RCMP's activities with respect to national security, to reiterate the call for a public inquiry into the Arar case, and to ask for an accelerated and comprehensive review of the Anti-Terrorism Act (C-36).
- As part of the Government of Canada's five year review of the *Anti-Terrorism Act* (ATA), the ICLMG produced a major brief commenting and making recommendations on several provisions of the ATA as well as the security certificate provisions of the *Immigration and Refugee Protection Act*. In 2005, the ICLMG and several of its member organizations appeared as witnesses before both the House of Commons and Senate Committees reviewing the ATA.
- The ICLMG was granted intervenor status and made legal representation during the Supreme Court appeal on security certificate heard on June 13, 2006.