

Press Kit

Canadian involvement in Benamar Benatta's ordeal cries out for review

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For immediate release**

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Mr. Benatta along with Amnesty International Canada, the Canadian Arab Federation, the Canadian Council on American-Islamic Relations, the Canadian Council for Refugees, the Canadian Muslim Civil Liberties Association and the International Civil Liberties Monitoring Group call on the Canadian Government to review the actions of Canadian officials in illegally transferring Benamar Benatta to U.S. officials on September 12, 2001.

Any review undertaken must be comprehensive, credible, independent and impartial and must inspire public confidence in the result. No Canadian official or agency should be exempt from scrutiny.

There is currently no review mechanism to which Mr. Benatta can turn to complain about his treatment. Mr. Benatta sought but was recently refused standing at the Internal Inquiry led by The Honourable Mr. Justice Frank Iacobucci. This result was disappointing, but not surprising given Mr. Justice Iacobucci's narrow mandate as set out in his Terms of Reference.

On April 9, 2007 a letter was sent to Prime Minister Stephen Harper and Minister of Public Safety, Stockwell Day, requesting a review into any and all actions by Canadian officials in relation to Mr. Benatta's ordeal. No response has yet been received.

"I lost five years of my life" said Mr. Benatta. "I know that it's time for me to face and deal with what I went through so I can put it behind me and try to go on with my life, but to do so, I need some clarifications. Why was I singled out and treated this way?"

"Mr. Benatta and the Canadian public deserve answers as to how he came to be illegally handed over to U.S. officials, in violation of Canadian and international law. The consequences of this illegal act were devastating for Mr. Benatta, who was held in detention in the U.S. for nearly five years. He was among the last of the 'September 11 suspects' to be released. We need answers if Canada is to protect its international reputation as a leader in human rights" said Mr. Benatta's lawyer, Nicole Chrolavicius of *bakerlaw*.

"Mr. Benatta's experience highlights the extreme vulnerability of refugee claimants," said Janet Dench, Executive Director of the Canadian Council for Refugees. "On September 12, 2001, he was utterly isolated, and had to depend on Canadian officials following domestic and international law. They failed him."

"The mistreatment suffered by Mr. Benatta at the hand of U.S. authorities is yet another example why Canada should repeal the Safe-Third-Country agreement and

re-think other provisions of the Canada-U.S. Smart Border Agreement that call for greater harmonization of our refugee policies” added Roch Tassé, Coordinator of the International Civil Liberties Monitoring Group. “Refusal to do so makes us complicit with U.S. disregard for international covenants and international law”.

“There are important questions raised here which cannot go unanswered,” said Hilary Homes, campaigner for international justice, security and human rights with Amnesty International Canada. “The oversight recommendations of the Arar Commission must be implemented so that individuals like Mr. Benatta will have a genuine review process to turn to.”

“From Benatta and Arar to the ‘Iacobucci three’, there exist thousands of untold accounts of Muslims profiled and lives ruined by border and security agencies. This has become the norm and not the exception to the rule,” said Sameer Zuberi, spokesperson for the Canadian Council on American-Islamic Relations and the Canadian Muslim Civil Liberties Association.

“It’s time for our government to act decisively and legislate to ensure that basic human rights of all people - Arab or Muslim, black or white - are protected while on Canadian soil. We also strongly hold that a review must be made into Mr. Benatta’s ordeal, so that what happened to him never happens again,” said Canadian Arab Federation spokesperson, James Kafieh.

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Benamar Benatta: Short Biography

Benamar Benatta was born on May 16, 1974 in Muaskar City, Algeria. In 1992, Benamar followed in his father's footsteps and joined the Algerian military. The military sponsored his university education where he trained as an aeronautical engineer with an emphasis of avionics (also known as aviation electronics). He graduated from the University of Blida near Algiers in 1998 and returned to military service. He eventually attained the rank of lieutenant. While in the military, Benamar was politically persecuted. He was targeted due to his objections to the methods employed by the Algerian military at that time. He also faced threats on his life from the GIA, the armed wing of the Islamic Salvation Front, because of his military associations.

On December 31, 2000, Benamar came to Baltimore, Maryland in the United States of America on a six month visa to attend a training course with a private security company along with 39 fellow members of the Algerian military. Unbeknownst to his peers, he intended to desert the military. On April 7, 2001, when the training course finished, Benamar did not return to Algeria. He deserted the Algerian military by taking a bus to New York City in the middle of the night.

Benamar decided that he would have a better chance at obtaining asylum in Canada. The contacts he met in New York City told him that Canada's system was fairer and Benamar thought that he would be better able to explain his story in his first language: French.

On September 5, 2001, Benamar boarded a bus bound for Toronto. He was stopped at the border at Fort Erie and found to be traveling on a false document. He immediately admitted his true identity and claimed political asylum. He was held in the Niagara Detention Centre pending further inquiries into his identity. Benamar was being held in isolation when the terrorist attacks of September 11, 2001 occurred. He did not know anything about them.

On September 12, 2001, without being informed of what was happening, let alone given an opportunity to contest it in a hearing, without counsel and without access to proceedings in his first language (French), Mr. Benatta was illegally driven over the border in the back of a car by Canadian officials and handed over to U.S. officials.

In the U.S., Mr. Benatta was treated as a suspect in the September 11, 2001 attacks and was imprisoned, abused and held in conditions that the United Nations Working Group on Arbitrary Detention found could be considered as torture. Despite being cleared by the FBI in November 2001 of any connection to terrorism, he spent nearly five years in detention. On July 20, 2006, Mr. Benatta was finally allowed to return to Canada and has resumed his claim for asylum. His application is currently pending.

Benamar Benatta: Chronology of Events

- Apr 7, 2001 After completing a training contract along with 39 other members of the Algerian military with a private security company in Baltimore, U.S.A., Benamar Benatta deserts the Algerian military by taking a bus to New York City in the middle of the night instead of boarding his flight back to Algeria. He leaves most of his belongings in his hotel and brings only a small bag.
- Sep 5, 2001 Believing that he will have a better chance of obtaining asylum in Canada, Benamar boards a bus in New York City bound for Toronto. The bus stops at the Canadian border at Fort Erie in the morning. All passengers are told exit the bus in order to pass through Canadian immigration.
- Benamar presents a false document to a Canadian immigration official. When he is asked for further documentation, Benamar pauses. The immigration official becomes suspicious and asks to look inside Benamar's bag. Benamar agrees and unlocks his bag for the official. When his bag is opened, his Algerian passport is soon discovered near the top of his belongings. Benamar states that his Algerian passport represents his true identity and that he is claiming political asylum.
- Benamar is taken to a room where he waits for a number of hours. An immigration official comes to see him in the evening and asks to take his statement. The official asks Benamar if he wants a translator. Benamar tells the official that he speaks French. The immigration official tells Benamar that there is no one on staff presently who speaks French, but that he can wait until the next day when there should be a French speaker on duty. Just wanting to get the proceedings over with, Benamar tells the immigration official that he is prepared to proceed in English as long as the official speaks slowly. Benamar provides an oral statement to the immigration official as best he can in English. Benamar is not given the opportunity to speak to a lawyer.
- After speaking with the immigration official, Benamar is taken into immigration detention at the Niagara Detention Centre. He spends the night in a room with other prisoners.
- Sep 6, 2001 Benamar is questioned by a doctor who asks about his mental state. Benamar tells the doctor that he feels depressed about being in detention. Benamar is taken into isolation and is placed on suicide watch.

Sep 11, 2001 Unbeknownst to Benamar, terrorists attack the World Trade Centre and other targets in the U.S.

Sep 12, 2001 Although Benamar has no specific memory of an official hearing, a transcript of proceedings indicates that Benamar appears before an Immigration Adjudicator who orders his continued detention in order to allow immigration officials to make further inquiries into his identity. A further detention review was to be scheduled within one week.

Benamar is interviewed by two unidentified people in civilian clothes. These people ask Benamar about his military associations and about whether he has the ability to fly airplanes. They do not ask him any questions that appear relevant to his asylum claim. When they are finished asking questions, Benamar is taken back to his isolation cell.

Later in the day, Benamar is brought to the processing area where he is strip searched and his photograph is taken. A man in a uniform tells him to change into his clothes as he is being moved to another place. Benamar believes that he will be transferred to another prison within Canada, perhaps in Toronto.

Benamar is taken to a police car and placed in the back seat. Two uniformed officers, a man and a woman, sit in the front seat. Benamar sits quietly in the back of the car as it begins to drive away. It is dark outside. After approximately 45 minutes to one hour of driving, the car pulls up in front of an American immigration building. A number of people in U.S. Immigration and Naturalization Service (INS) uniforms come out of the building and escort Benamar from the car and into the building. Benamar realizes that he has been driven back into the United States. He is terrified that he will be sent back to Algeria.

Benamar is taken into a room where an INS official tells him that FBI agents are on their way from Washington to interview him. Some hours later Benamar is interviewed by two U.S. officials. This is the first time that Benamar hears about the terrorist attacks that took place on September 11, 2001. The U.S. officials show Benamar a picture of the World Trade Centre which was taken from a number of personal photographs in Benamar's belongings. The U.S. officials tell Benamar that 3,000 people died in New York City and that if he admits what he did, he will get life in prison instead of the death penalty.

Sep 12-15, 2001 Over the next four days, Benamar is held in isolation. He is held incommunicado, without access to a lawyer or anyone

else. He believes that U.S. officials will present him to the American public as the person responsible for the September 11, 2001 terrorist attacks. He believes his life is over.

Sep 16, 2001

Benamar is placed in handcuffs and ankle chains and a chain is placed around his waist. He is taken to an airplane and is flown to Kennedy International Airport. Dozens of police officers with rifles meet him and escort him to a car with a police escort. Benamar is taken to the Metropolitan Detention Centre (MDC) in Brooklyn, New York.

At MDC, Benamar is placed in a high security unit of the prison. He is held in solitary confinement and without access to a lawyer. The lights are kept on 24 hours a day and remain alit for more than the next six months. Prison guards bang on his door every 30 minutes so that he cannot sleep. When he is not in isolation, he is repeatedly interrogated about the terrorist attacks that took place on September 11, 2001.

“WTC” is written on the door of Benamar’s cell in chalk for “World Trade Centre”. Benamar is beaten regularly by the prison guards. The guards slam his head against the wall and step on his leg shackles. His food is withheld. Benamar goes on hunger strike in an attempt to improve his conditions.

At MDC Benamar asks to make a claim for asylum, telling U.S. officials that he fears for his life if he is returned to Algeria.

Nov 15, 2001

The FBI clears Benamar of any connection to terrorism, but Benamar himself is not told at this time. He remains in prison completely incommunicado and without access to a lawyer.

Jan 4, 2002

Benamar is denied asylum after representing himself in an asylum proceeding. He does not understand the proceedings and has no access to legal counsel.

Apr 30, 2002

Benamar is transferred to the Batavia Detention Centre. He is held in a maximum security part of the detention centre, with high-risk criminal convicts. He is permitted to speak to a lawyer for the first time. He learns that on December 12, 2001, he was charged with false documents offences. His lawyer applies to have the criminal charges dismissed.

Sep 25, 2003

Magistrate Schroeder dismisses the criminal charges against Benamar on various grounds, including that the delay in prosecution violated his Sixth Amendment right to a speedy trial and the undue and oppressive conditions he endured in prison compromised his ability to make a proper defence. Magistrate Schroeder found that in fact the criminal charges

were a “sham” and a “ruse” by the INS and the FBI to justify Benamar’s detention and found that Benamar was “undeniably deprived of his liberty” and held in custody under harsh conditions which can be said to be “oppressive”. Even though the charges against Benamar are dismissed, he remains in prison.

- Oct 16, 2003 The U.S. consents to a *de novo* hearing of Benamar’s asylum application.
- Dec 27, 2003 Benamar’s second asylum hearing is held.
- Apr 7, 2004 Benamar asylum application is denied a second time.
- Apr 12, 2004 Benamar launches another appeal in his asylum claim.
- Apr 22, 2004 Benamar is informed by U.S. officials that he will be released if he can post \$25,000 bond, a sum he simply cannot afford. When community organizations later raise the money for his release, he is told that the offer is no longer on the table.
- May 7, 2004 The UN Working Group on Arbitrary Detention releases its opinion that the U.S. government arbitrarily deprived Benamar of his liberty and acted in contravention of Articles 9 and 14 of the *International Covenant on Civil and Political Rights*, the Universal Declaration of Human Rights and the United Nations Standard Minimum Rules for the Treatment of Prisoners. The UN Working Group also notes that the high-security prison regime to which Benamar is subject involves “impositions that could be described as torture”.
- Sep 16, 2004 The UN Working Group’s opinion is formally adopted.
- Sep 3, 2004 Benamar’s further asylum appeal is denied.
- Sep 4, 2004 Benamar files a Petition for Review accompanied by a motion to stay his removal. The U.S. proposes another *de novo* hearing of his asylum application while the Petition is pending.
- Jan 23, 2005 The Second Circuit grants Benamar’s motion to stay his removal.
- July 20, 2006 Following a period of negotiation between Canada and the U.S., Canada agrees to allow Benamar to return to Canada to resume his refugee claim. U.S. officials drive Benamar over the border in chains and a blue prison uniform and without any of his belongings and hand him over to Canadian officials. Benamar’s refugee claim is currently pending.

Benamar Benatta: Personal Statement

April 18, 2007

Check against delivery

Good Morning Ladies and Gentlemen:

My name is Benamar Benatta and I am from Algeria. First of all, I would like to thank you for showing up today, and for answering our call, a call to try and correct a harmful error. I continue to endure its consequences to this day.

It is hard for me to tell my whole story in such a short time. I came to Canada on September 5th, 2001 and claimed asylum. I was held in detention at the Niagara Detention Centre until September 12th, 2001. I did not know anything about the terrorist attacks that happened on September 11th, 2001 because I was being held in isolation. On September 12th, 2001, two Canadian officials put me in the back of a car and told me they were taking me to another place. I thought I was going to another detention centre in Canada. Instead, I was spirited off to the United States and handed over to U.S. officials. I was held in the Metropolitan Detention Centre in Brooklyn, accused of being a terrorist who was involved in the September 11th terrorist attacks. I thought my life was over. I was beaten, humiliated and tortured while I was in prison in Brooklyn. My name was cleared by the F.B.I in a matter of months, but I was kept in prison in the U.S. for five long and frustrating years. Last July, I was finally released and allowed to return to Canada to resume my refugee claim. The last five years of my life have been like a long nightmare.

You know, during the few months that followed my release from detention, I tried and struggled very hard to get at least to the point where I was before my detention: a man with dreams and full of energy, and life. However, the reality soon hit me. I am no longer the same person. I came to realize that not only did I lose five years of my life but I also lost more than that. I lost my dreams, objectives, and enthusiasm. I became depressed and lost any hope for the future. I cannot work in my field anymore. I do not have any social life right now, and considering the pace at which the healing process is moving, it's going to take a long time before I get a normal life, if I ever get one at all. Because of what happened, I lost my friends and got barred from traveling to the U.S. and this may be a problem down the road when traveling to any other country.

Je viens de réaliser que je ne suis pas la même personne. Je viens de rendre compte que non seulement j'ai perdu 5 ans de ma vie, mais j'ai perdu plus que cela. J'ai perdu mes rêves, objectifs et enthousiasme. Je suis devenu déprimé et j'ai perdu tout espoir dans l'avenir. J'ai perdu mes amis et je ne peux plus voyager aux États Unis et probablement à d'autres pays.

I just cannot go on living like this anymore. I know that it is time for me to face and deal with what I went through, so I can put it behind me and try to go on with my life, but to do so, somebody has to give me some clarifications, because to tell you the truth, I still don't get it. Why I was singled out and treated in such a way? Is it

being a Muslim from a Muslim country, and with the background in aeronautics, is an offence nowadays that will justify such treatment? Are there others out there who were treated just like me?

Pourquoi j'été choisi et traité d'une telle façon? Est que être Musulman, d'un pays Musulman, avec une éducation en Aéronautique une offense qui justifiera tel traitement?

I lost five years from life and probably more years to come, and I know this: that there is someone out there who owes me an explanation.

Thank you – merci beaucoup.