

No complicity in torture

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Today, the BCCLA sent [a letter to Minister of Justice Robert Nicholson](http://www.bccla.org/pressreleases/11Diab_committal_letter.pdf) (http://www.bccla.org/pressreleases/11Diab_committal_letter.pdf), urging him to ensure that Canadian citizens are protected against foreign prosecutions relying on evidence derived from torture. The issue arises in the context of the ongoing attempts to extradite Hassan Diab for trial in France.

As readers of this blog know, Mr. Diab is a Canadian citizen whose extradition is being sought in connection with a bombing in Paris in October, 1980. We've been [following his extradition proceedings](http://nationalecurity.bccla.org/2011/02/18/torture-in-the-court/) (<http://nationalecurity.bccla.org/2011/02/18/torture-in-the-court/>) because of the prominent role unsourced intelligence played in the Republic of France's original Record of the Case submitted to support its extradition request, and the role that unsourced intelligence is likely to play at his trial in France.

In June of this year, a court in Ontario [issued a committal order](http://nationalecurity.bccla.org/2011/06/06/legitimizing-torture/) (<http://nationalecurity.bccla.org/2011/06/06/legitimizing-torture/>) for Mr. Diab's extradition, which is the legal mechanism permitting the government to surrender Mr. Diab to the French authorities. But the ultimate decision to surrender Mr. Diab falls on the Minister of Justice, who must decide whether it is appropriate to send Mr. Diab to face trial before a French court. In its letter to the Minister of Justice, the BCCLA sets out the reasons why surrender would be inappropriate in this case.

Chief among our concerns is the documented use of evidence derived from torture in French terrorism proceedings. Human rights organizations and international experts have reported on France's willingness to use intelligence information coming from international partners well-known to routinely engage in torture. To date, France has not confirmed that the unsourced intelligence being offered against Mr. Diab was obtained by means other than torture.

The BCCLA has long maintained that evidence derived from torture has no place in judicial proceedings. Canadian and international law are clear on this point. In our letter, we called on the Minister to refuse Mr. Diab's surrender altogether, as that would be the best guarantee that he would not be extradited to face an unfair trial. In the case that the Minister does decide to surrender Mr. Diab, we called on him to seek and obtain meaningful assurances from France that no evidence derived from torture would be used in the case against Mr. Diab.

Meaningful assurances, in this case, would mean that France must commit to providing adequate procedural safeguards to ensure that no intelligence information used in the case against Mr. Diab was derived from torture, or else commit to excluding all unsourced intelligence from Mr. Diab's prosecution entirely. Getting these assurances is the only way that Canada can maintain its commitment to the elimination of torture, wherever it may take place.

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