

Torture evidence should not be used against Canadians

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In a letter sent today to Minister of Justice Robert Nicholson, the BCCLA calls on him to ensure that Canadian citizens are protected against foreign prosecutions relying on evidence derived from torture. The issue arises in extradition proceedings in Canada undertaken at the request of the French government in relation to Hassan Diab, a Canadian citizen. Mr. Diab has no criminal record in Canada. He has taught at Carleton University and the University of Ottawa. His extradition is being sought in connection with a bombing in Paris in October, 1980.

France's case against Mr. Diab consists of, in significant part, "intelligence" information from unidentified sources. French law and trial procedures differ from those in Canada. France's use of evidence derived from torture in terrorism proceedings has been documented by human rights organizations and international experts. To date, France has not confirmed that the unsourced intelligence was obtained by means other than torture. If extradited, Mr. Diab may be prosecuted based on evidence derived from torture. Canadian law makes clear, however, that information derived from torture has no place in judicial proceedings.

Robert Holmes, Q.C. President of the BCCLA: "Canadians look to their government to ensure that Charter rights are protected. That includes the right to a fair trial. Fair trials do not allow evidence obtained from torture. That applies in Canada and must apply when someone in Canada is sought to be extradited to be tried in a foreign country. It is now up to the Minister of Justice to ensure that protection in the case of Mr. Diab, just as he ought to do so in all cases. The best guarantee would be to decline to surrender Mr. Diab altogether. At the least, however, if the Minister chooses to surrender Mr. Diab, then he must obtain meaningful legal assurances from France that no evidence derived from torture will be used."

Carmen Cheung, Counsel at the BCCLA: "Meaningful assurances 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."

[Click here to see the letter to Minister of Justice Robert Nicholson \(http://bccla.org/wp-content/uploads/2012/03/20110912-BCCLA-Letter-Minister-of-Justice-Hassan-Diab.pdf\)](http://bccla.org/wp-content/uploads/2012/03/20110912-BCCLA-Letter-Minister-of-Justice-Hassan-Diab.pdf)

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