

Towards the legalization of torture in Canada?

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The Canadian government's conduct in several affairs suggests that it is systematically abetting, and making use of information gained through, torture. Ottawa continues to deny this publicly, but in judicial proceedings its lawyers have brazenly defended the use of "intelligence" induced by torture.

The best-known and most flagrant case is that of Maher Arar. US authorities, acting on false information sent to the FBI and CIA by the Canadian national security establishment, seized Arar, a Canadian citizen of Syrian origin, in 2002 as he changed airplanes in New York. Washington subsequently illegally deported Arar, via Jordan, to Syria, where he was imprisoned in a dungeon and tortured. The Canadian government left Arar in the hands of his Syrian torturers for nearly a year, going so far as to exchange information with, and send questions to be put to Arar by, the Syrian secret police.

The case of Adil Charkaoui is another example of Canadian state complicity in torture. Charkaoui is the object of a national security certificate, a ministerial decree which permits, without trial or the need to furnish any evidence, the indefinite imprisonment of a non-citizen (visitor, refugee, or longstanding immigrant) suspected of being a threat to "national security". Officials have claimed that a reliable source informed them that Charkaoui had trained in an al-Qaeda camp in Afghanistan, but long refused to divulge the source's identity. The source was finally revealed to be Ahmed Ressam, who was arrested at the Canada-US border in 1999 with 58 kg of explosives in his car, allegedly while en route to set them off at Los Angeles International Airport. Last April, Ressam declared that his "confession" incriminating Charkaoui was false and had been made under extreme duress and with the aim of obtaining clemency from his US jailors.

The Canadian government is also maintaining a complicit silence on the existence of secret US prisons around the world. It also stands virtually alone among Western governments in making no criticism whatsoever of the US concentration camp at Guantanamo Bay, Cuba, where so-called "illegal combatants" are held indefinitely under duress and are denied the most elementary democratic and judicial rights.

A Canadian citizen by the name of Omar Khadr is reputedly the only citizen of a western country still held at Guantanamo. Ottawa, under both Liberal and Conservative governments, has

not lifted a finger to help Khadr, who was sent to Guantanamo Bay at age 15, even though he has been held there for five years and denied the most basic rights accorded convicted criminals, let alone the rights guaranteed prisoners of war under the Geneva Accords. According to Khadr's US military legal counsel, he has suffered psychological trauma from the torture-like mental and physical duress that US authorities inflict on Guantanamo detainees.

In Afghanistan, where Canada is fighting alongside the US and NATO in a military intervention to defend its geopolitical interests, the Canadian Armed Forces have handed their Afghan detainees over to Afghan authorities (and to US forces who then transferred them to their secret prisons). Ottawa initially maintained that the Red Cross was monitoring the treatment of transferred prisoners. When the Red Cross denied this and added that it was impossible to carry out such monitoring, the Canadian government said it had full confidence in the Afghan government, feigning ignorance of the widespread torture practiced in Afghan prisons. Ottawa subsequently claimed it had reached an agreement with Afghan authorities on the treatment of prisoners. This too soon proved to be false, as it was revealed that this "agreement" was only at the stage of preliminary discussions.

Amidst this heap of lies, the Harper Conservative government suggested that prisoners captured by Canadian troops were "illegal combatants"—a legal ruse meant to absolve Canada of its obligation under the Geneva Accords to ensure prisoners of war are not tortured or otherwise abused.

The cases mentioned above are only the tip of the iceberg.

Late last year, after the public inquiry into the Arar affair published its report, the Conservative government was forced to call a second inquiry with the ostensible aim of clarifying Canada's role in the detention and torture of three other Canadians. Abdullah Almalki, Ahmed El Maati, and Muayyed Nureddin were all detained while traveling in the Middle East, but there is much evidence to show that their arrests were made at the instigation of Canada's security establishment and that the Royal Canadian Mounted Police (RCMP) and Canadian Security and Intelligence Service (CSIS) subsequently traded information with their Syrian and Egyptian captors.

Ottawa's intention is not to reveal, but to cover up, the

circumstances surrounding the abuse suffered by these three Canadian citizens. At the government's and security services' request, the judge chosen to preside over the inquiry has decided to hear nearly all testimony behind closed doors, a decision that the three men's lawyers are currently contesting in court.

The government has cited the need to uphold "national security" and maintain good international relations to justify its insistence that the "public" inquiry into the Almalki's, El Maati's, and Nureddin's detention and torture be, for all intents and purposes, a secret inquiry.

Its real aim is to prevent the public from learning of two interrelated practices of the Canadian security services that flout the ban on torture under Canadian law and Canada's obligations to oppose torture under an international treaty Ottawa signed in 1984, the Convention against Torture and Other Cruel, Inhuman, or Degrading Punishments or Treatment.

First, the RCMP and CSIS are working in tandem with foreign security services that routinely practice torture.

Second, that following the September 2001 terrorist attacks in the US, the Canadian security establishment developed a practice, akin to the US practice of rendering terrorist suspects to foreign countries that practice torture, so as to circumvent legal restrictions on "aggressive interrogations." In the case of Canada, this has meant conniving in the apprehension, detention without trial, and torture-interrogations of Canadians traveling abroad.

The omnibus anti-terrorist laws adopted in all haste by the Liberal government of Jean Chrétien in the fall of 2001 with the support of the three opposition parties, gave the RCMP and CSIS *carte blanche* to use such methods. Under this legislation the state is given sweeping powers to deny persons accused in terrorism cases and their legal counsel from learning the evidence against them, including the source of the evidence.

In the name of protecting sources (and thereby national security) and of maintaining good international relations, the state can suppress not only the fact that its "evidence" has come from dictatorial regimes and was likely induced by torture, but also any role Canadian security services played in the detention and/or interrogation of those who have implicated the accused as a terrorist.

However, now that evidence of Canadian state complicity in torture has come out in a series of judicial proceedings, especially the Arar inquiry, the government and security agencies have begun to elaborate a new legal "theory," according to which torture is a legitimate and indispensable tool in the struggle against terrorism.

Currently in Canada, it is a crime to torture someone. A policeman or soldier cannot cite obeying a superior officer, nor exceptional circumstances like wartime, to defend himself against accusations of torture. Evidence obtained through torture, even if by a foreign government or agency, is also

illegal.

Yet government lawyers and security and intelligence officials are now arguing that torture may be necessary to save lives and that information obtained through torture should be used by intelligence agencies and be admissible in courts as long as other "independent" evidence corroborates it.

During the Arar inquiry, the government's counsel, Barbara McIsaac, defended the information-sharing between Syrian and Canadian intelligence that took place during Arar's incarceration. "We now know that nothing was happening," McIsaac said, "But... what if Mr. Arar was in fact a prime player in some (terrorist) event that was going to occur? What if the Syrians knew something as a result of their questioning of Mr. Arar?" (See Canadian government defends intelligence extracted through torture.)

The logical conclusion of this sort of argument is the denial of the right of silence, a principle advanced by the rising revolutionary bourgeoisie in its struggle against feudal oppression, and which, under Common Law, protects everyone from torture.

The turn of the ruling classes—not only in Canada but in other Western countries and particularly in the US—to torture and their efforts to legitimize and legalize this barbaric practice must be understood in the context of the deepening social crisis.

The Canadian elite, like its counterparts in the US, Europe and Japan, is relentlessly pursuing policies aimed at impoverishing the great majority of the population so that a tiny minority at the top of the social hierarchy can accumulate more wealth. Parallel to this internal class struggle, Canadian imperialism is deepening its participation in colonial-style acts of military aggression abroad—currently in Afghanistan—and, so as to advance its own predatory interests, has aligned itself ever more closely with US militarism

These two developments are profoundly unpopular among the masses, making unprecedented social conflicts inevitable.

The Canadian ruling class, in the name of the struggle against a tiny minority of Islamic fundamentalist terrorists, is developing, and seeking to give legal sanction to, authoritarian forms of rule, including torture, that will be used to combat popular opposition, above all that of the working class.

Workers must make their own preparations: the building of a mass political party based on the perspective of international socialism in the struggle against war and social inequality to defend jobs, social programs, and democratic rights.



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