



# Amnesty International

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John Laskin and John Terry  
Lead and Co-Lead Counsel  
Internal Inquiry into the Actions of Canadian Officials  
in Relation to Abdullah Almalki, Ahmad Abou Elmaati  
and Muayyed Nureddin

By fax: 992 2366

June 14, 2007

Dear Mr. Laskin and Mr. Terry,

This letter is in follow-up to our meeting of June 8, 2007 in which the intervening organizations shared with you our concerns and recommendations with respect to the approach that the Commission of Inquiry takes to assessing the allegations of torture that have been made by Messrs. Almalki, Elmaati and Nureddin.

We were all pleased that the Commissioner ruled that it is proper and appropriate that he ascertain in the course of this Inquiry whether these three men were tortured in Syria and/or Egypt. We view that to be one of the central issues in the Inquiry, one that carries significant legal, policy and public implications and impact.

We are now very concerned that the process the Commission puts in place to assess the allegations of torture be one that is fair and draws upon the necessary expertise to carry out what will be a sensitive and demanding assessment.

You have indicated that it is your intention to approach this issue in a manner similar to the other factual assessments and determinations the Commission will face in the course of its work. As such, one of the Commission counsel, Marie Heinen, will be assigned to carry out interviews with the three men and share the results of those interviews with the Commissioner, who will then draw appropriate conclusions.

Because of the nature, gravity and sensitivity of the issue of torture, we are all firmly of the view that it should not be handled in the same way as other evidence will be assessed. We urge that for a number of reasons:

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**National Office**

312 Laurier Avenue East  
Ottawa, ON K1N 1H9  
Telephone: 613.744.7667  
Fax: 613.746.2411  
Email: [info@amnesty.ca](mailto:info@amnesty.ca)

**Toronto Office**

14 Dundonald Street  
Toronto, ON M4Y 1K2  
Telephone: 416.363.9933  
Fax: 416.363.3103  
Email: [toronto@amnesty.ca](mailto:toronto@amnesty.ca)

**Pacific Regional Office**

430-319 W. Pender St.  
Vancouver, BC V6B 1T4  
Telephone: 604.294.5160  
Fax: 604.294.5130  
Email: [pro@amnesty.ca](mailto:pro@amnesty.ca)

- evaluating claims of torture is a unique and sensitive type of investigation or adjudication;
- it can be difficult to distinguish concerns about credibility from issues related to trauma;
- interviewing torture survivors should be approached in a manner that minimizes the possibility of retraumatization;
- it would be cumbersome and incomplete to have the claims of torture reviewed and evaluated without an accompanying, expert-based opinion of the well-foundedness of those claims; and
- there is now considerable expertise with respect to evaluating torture claims available in Canada, particularly in the legal and mental health fields.

The approach the Commission takes to this particular issue will be one of the most carefully-watched aspects of the Inquiry. Canadians are deeply concerned and troubled about the allegations of torture and there is a strong public interest therefore in ensuring this is dealt with in a manner that is sensitive, fair and comprehensive. There are also commentators who have indicated that they are doubtful that the claims of torture are legitimate. The approach taken must therefore be sufficiently expert and credible to withstand their critique.

We do not have a position as to whether the individual tasked with carrying out this review is considered to be Commission counsel or not. We do however urge that they be someone with a demonstrated level of expertise in evaluating torture claims; have a requisite level of independence and impartiality; and be tasked with reaching a finding that will be shared with the Commissioner.

We would also, therefore, like to take this opportunity to recommend to you Peter Showler. Mr. Showler is currently an adjunct professor in the Faculty of Law at the University of Ottawa. He served on the Immigration and Refugee Board between 1993 and 2004, and was Chairperson of the Board between 1999 and 2004. He had a lengthy career as a refugee lawyer before that. He has extensive experience interviewing and assessing torture claims and has a demonstrated level of independence through his work on the Board. We believe he would be a strong candidate to carry out this role.

We have urged you to ensure that all participants in the Inquiry are provided with an opportunity to share their own view regarding criteria, as we have done, and also to suggest suitable candidates for this role.

Thank you for your further consideration of our concerns. We look forward to hearing how you decide to proceed. We would of course be prepared to discuss this further if you have other questions.

Sincerely,



Alex Neve  
Secretary General  
Amnesty International Canada

on behalf of:

- Amnesty International Canada
- British Columbia Civil Liberties Association
- Canadian Arab Federation
- Canadian Council for American Islamic Relations (Canada)
- Canadian Muslim Civil Liberties Association
- International Civil Liberties Monitoring Group