



## Security certificates: Next steps Key points

### Introduction

Following the recent Supreme Court of Canada decision on security certificates (*Charkaoui*), Parliament must decide how to respond to the Court's ruling that the non-disclosure of information (or "secret evidence") violates the Canadian Charter of Rights and Freedoms.

*Canada should pursue a strategy of criminal prosecutions, rather than using immigration procedures, such as the security certificate*

- Immigration procedures do not guarantee those affected the same procedural protections as the criminal justice system.
- Immigration procedures are discriminatory because they can only be used against non-citizens.
- Immigration procedures are not an effective way of combating security threats, because they inhibit the normal work of police investigation, which would lead to prosecution, and because those removed may go on to commit acts of violence elsewhere. Canada has international obligations to prosecute acts of terrorism.
- Immigration procedures can lead to long-term indefinite detention and to removal to torture.
- Immigration procedures have resulted in protracted legal challenges
- Security certificates have proven extremely costly.

### **Canada should reject the use of secret evidence. Special advocates are not a solution: hearings using secret evidence would still be unfair.**

- The use of secret evidence denies individuals the right to know and meet the case against them.
- The use of secret evidence undermines public confidence in the justice system. Canadians cannot see that justice is being done.
- A special advocate will not make the hearing fair, only slightly less unfair. The introduction of special advocates is likely to lead to further litigation and fierce criticism, as has occurred in the UK where they are used.
- The findings of the Arar Commission demonstrate that mistakes can and have been made by Canadian security agencies. Evidence needs to be rigorously tested, especially in security cases, where information is often based on vague assessments, and potentially unreliable informers and foreign intelligence sources.
- Given widespread prejudices and misinformation about Arabs and Muslims, there must be open and transparent testing of the evidence to avoid the danger of racial and religious stereotyping, and the danger of the perception that this is occurring.

### **Canada should adopt unambiguous legal prohibitions against the use of evidence that may reasonably be suspected of having been obtained under torture.**

### **Canada should implement as soon as possible the recommendations of the Arar Commission for effective oversight of security agencies, including for immigration-related activities.**

The full text of the CCR's submission is available at [www.ccrweb.ca/documents/Certificates07.pdf](http://www.ccrweb.ca/documents/Certificates07.pdf)