An Alberta case is providing the Canadian government an opportunity to send a strong message that those who carry out crimes against humanity anywhere in the world will be held fully accountable.

In January, Jorge Vinicio Sosa Orantes, a man with Canadian, U.S. and Guatemalan citizenship, was arrested in Lethbridge, Alberta. He is currently in detention in Calgary. The original basis for Sosa’s arrest in Canada was a request from the United States, which has indicted Sosa for lying in his citizenship application. But what is more significant for Lawyers Without Borders Canada and the Canadian Centre for International Justice is that Sosa is the object of arrest warrants in Guatemala and Spain for his alleged role in an appalling massacre committed during that country’s civil war.

The evidence in Guatemalan and Inter-American court cases indicates that Sosa was a commander in an infamous special army unit in Guatemala that, over three days in 1982, methodically executed more than 250 people in the town of Las Dos Erres. Only two young boys are known to have survived. The massacre included the rape of numerous women and the bludgeoning of children with a sledgehammer before they were thrown down a well.

Spain wants Sosa on charges of genocide. The United States is seeking to try him for fraud. We are informed that Guatemala has initiated legal procedures that should result in an extradition request. What is Canada to do?

Usually, there is a strong preference that human rights violations be prosecuted in the country where they occurred. Guatemalan authorities have indicted other men involved in the Dos Erres massacre, and there is hope that a trial will be allowed to proceed in July 2011. Victims and human rights groups, however, have expressed concern about the Guatemalan courts. They are nervous that a prosecution might not be allowed to succeed after years of delays and setbacks.

Under present U.S. laws, there is uncertainty as to the legal possibility to prosecute Sosa for human rights violations that occurred in 1982, so the U.S. government is seeking to try him for lying in his citizenship application. The maximum sentence for such a crime is only ten years in prison, and past experience has proven that fraud trials in the United States provide little opportunity for victims of gross human rights violations to participate.
This is not merely the judgment of our organization. We are in close contact with the families of those killed in the massacre and their lawyers, and they have clearly communicated to us that real justice will only be achieved by a trial that looks into his role in the massacre. To them, a U.S. prosecution for fraud and a possible sentence of ten years or less would not be nearly enough for a man accused of murdering their relatives in cold blood. They either want Sosa prosecuted in Canada for crimes against humanity or extradited to stand trial on equally strong charges elsewhere.

Though its presence in this case may seem peculiar, Spain has been investigating events in Guatemala for many years. Using “universal jurisdiction” principles that allow the prosecution of human rights abuses even if they happened decades ago in another country, Spanish judges are looking into the responsibility of the top Guatemalan commanders, including former president Efraín Ríos Montt, in a genocide case concerning the Guatemalan army’s “scorched earth” policy. The Spanish case would provide an opportunity to get to the heart of his alleged human rights crimes.

Canada is both well equipped and legally obligated to investigate Sosa’s role in the massacre. Canada’s Crimes Against Humanity and War Crimes Act (CAHWCA), as well as the Criminal Code, provides the Crown with “universal jurisdiction” similar to that of the Spanish laws. The CAHWCA has already been used successfully in the 2009 Munyaneza case to convict a man who moved to Canada after killing and raping innocent civilians during the genocide in Rwanda. The law could easily be applied to Sosa.

Given the horrific allegations and extensive evidence in the case, the Canadian government must assure that there will be an opportunity for complete accountability. This means giving priority to any extradition request that provides guarantees that charges involving the massacre itself will be brought against Sosa. But because any extradition process could take years to complete and there is no guarantee it will be successful, Canada must pursue a full investigation to make certain that Sosa could face crimes against humanity charges here if he is not sent elsewhere.

A person who allegedly committed crimes against humanity has fallen into Canada’s lap. The easy thing might be for the Canadian government to ship Sosa back to the United States. The right thing would be for Canada to pursue its own investigation and look favourably on the opportunity to send him to Spain. Full accountability demands no less.