

AVANT PROPOS

La force du droit

L'accord historique conclu dimanche dernier à Genève sous l'égide de l'ONU entre les pays du G5+1 et l'Iran, n'aurait jamais pu être conclu, s'il n'y avait pas cet entêtement de la part de l'Iran et son insistance sur son droit de produire et utiliser l'énergie nucléaire à des fins pacifiques. Un droit garanti par les dispositions du droit international en vigueur. En fait, même une objection occidentale sur le programme nucléaire iranien n'aurait pas eu lieu si l'Iran n'était qu'un État auquel on dicte des directives à suivre, ou une base militaire pour les armées de l'OTAN. C'est que le régime en Iran n'est pas ainsi ! Lui, il aspire à l'indépendance, a refusé de rejoindre le camp de l'Est et celui de l'Ouest et travaille à soutenir les droits des peuples à disposer d'eux-mêmes contre l'occupation et la domination, afin qu'ils puissent profiter de leurs richesses nationales et humaines, et s'opposer à toute exploitation de leurs ressources naturelles et leurs potentiels intellectuels. Quant à l'accord, il consacre une étape importante et nouvelle, non seulement pour le peuple iranien, mais aussi pour tous les peuples de la région qui aspirent à la libération et à l'indépendance à l'instar des autres peuples du monde. Ce qui montre que l'existence du droit ne suffit pas à elle seule pour prévaloir celui-ci et à prouver sa logique dans un monde qui ne reconnaît que la puissance économique et militaire. En effet, si la question était seulement une application des résolutions onusiennes et des décisions de l'Organisation Internationale de l'Énergie Atomique, sur le programme nucléaire iranien, ces mêmes résolutions et décisions auraient aussi été appliquées sur le programme nucléaire israélien.

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“Hassan Diab is innocent and the case against him is without foundation”

Ahmad Hreiche
Sada Al Mashrek

In an effort to gain more information regarding this Hassan Diab complex case, we attempted to contact Mr. Hassan Diab, who is a suspect in the Rue Copernic bombing in Paris in 1980. He however was unavailable to be interviewed. Instead, we reached out to Mr. Donald Pratt, who is a member of the support committee for Mr. Diab and he was able to answer the questions below regarding the case.

Who stands behind the accusations towards Hassan Diab?

In 2008, the Republic of France made a request to Canada for the extradition of Dr. Hassan Diab. Initially the French claimed that Hassan is a suspect in the Rue Copernic bombing in Paris in 1980. Later (in 2012) the French revealed that he is only wanted for questioning and that they have not decided whether to put him on trial in France.



HASSAN DIAB

The French dossier is founded on unsourced, uncircumstanced (i.e., secret) intelligence. There is no way for Dr. Diab to get behind the “intelligence” in the dossier to test the reliability of the allegations. Furthermore, there is a real risk that the information France is relying upon may be the product of torture. The French investigators have stated on the record that they have no

way of knowing the sources of the foreign-gathered intelligence used in the case. The only evidence used by the Canadian judge to commit Hassan for extradition is a handwriting analysis report by French handwriting analyst Anne Bisotti. The analyst claims that Hassan's handwriting resembles five words printed in simplistic block letters on a Paris hotel registration card by the presumptive bomber in 1980. At Hassan's extradition hearing, three leading experts testified that Ms. Bisotti's report is “wholly unreliable”, “utterly biased” and “absurd”. They pointed out that the evidence actually excludes Hassan as the suspect. It is important to note that the French authorities initially submitted two handwriting reports that claimed resemblance; these two reports were withdrawn when it was revealed that samples used in the comparison were not even written by Hassan.

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Where does the case currently stand?

Dr. Diab's appeal of the extradition committal order (June 2011) and the Minister's surrender order (April 2012) was heard by a three-judge panel of the Court of Appeal for Ontario on November 4 and 5, 2013. We expect the Court to issue a decision a few months from now. Further steps by Hassan and his lawyers will depend on the Court's decision.

How have you found the Canadian support towards Hassan Diab's case?

Support for Dr. Diab across Canada is strong and growing. The Hassan Diab Support Committee has been actively involved with Dr. Diab's case since he was arrested in 2008. We have formed connections with grassroots groups and thousands of individuals throughout Canada and around the world. Over 3,000 people in Canada and internationally follow his case via Facebook and Twitter. Our strongest bases of support are in Ottawa and Toronto. Supporters are deeply concerned that Hassan may be extradited and deprived of his liberty based on "evidence" that would not be accepted in a Canadian court. We would certainly like to see more support from the Arab community in Canada. Additionally, numerous civil society organisations and unions have publicly expressed support for Dr. Diab, and their concern for the serious human rights issues raised by his case. For a partial list of supporting organisations, please visit <http://www.justiceforhassandiab.org/orgs-speak-out> Amnesty International, the BC Civil Liberties Association, and the Canadian Civil Liberties Association were interveners at the recent Court of Appeal hearing. In its submission, Amnesty wrote that extraditing a person to face a trial where evidence gleaned from torture could be introduced violates Canada's obligations under international law. BCCLA observed that the global "war on terror" has impacted the security and intelligence practices of many states, including Western democracies.

The result has been a "dangerous dynamic whereby all too often individuals get lost in the state machinery of suspicion and guilt by association", rather than being properly charged based on reliable evidence. CCLA noted that "Bitter experience has demonstrated that unreliable evidence can take many forms and occasion much injustice." I would also like to highlight the Hundred for Hassan campaign, which recently reached a milestone with the addition of the 108th signatory to the campaign statement (see <http://www.justiceforhassandiab.org/hundred-for-hassan-statement>). Members of the Hundred for Hassan campaign contribute \$20 or more per month to help cover the cost of Dr. Diab's GPS monitoring. The monitoring costs Hassan about 2,000 which he must pay for or return to detention.

What are the difficulties that Hassan Diab's defense have encountered?

The chief difficulty is the unfair and unjust nature of Canada's extradition law, which gives all the advantages to the requesting state (France) and places all the burden on Dr. Diab. During the extradition hearing (2010-2011), Hassan had to go through lengthy and difficult legal proceedings just to present evidence showing that France's first two handwriting analysis reports were totally flawed, since samples used belonged to someone else. Once Hassan finally succeeded in showing this, France simply withdrew the discredited reports, obtained an adjournment lasting nearly one year, and came back to the court with a third handwriting report (the Bisotti report). Once again, Hassan had to go through the same lengthy legal process to challenge this third report, which the court ultimately found to be "convoluted", "very confusing", and "with conclusions that are suspect". The Canadian extradition judge found that the case against Hassan is "weak, and the prospects of conviction in the context of a fair trial, seem unlikely". Nevertheless, the judge felt compelled by Ontario's interpretation of Canada's extradition law to sign the committal order.



MR. DONALD PRATT

In the context of these very lengthy and expensive legal proceedings, Dr. Diab's strict bail conditions have also burdened him with the virtually unique requirement that he pay approximately \$2,000 every month for his GPS monitoring or else be put in detention. Hassan and his family have borne this burden since April 2009. Dr. Diab's case points to glaring problems with Canada's extradition law. In extradition cases, the Charter rights of the person sought are severely compromised. Canadian standards of evidence do not apply. The standard for extradition is so low that Canada hands people over to other countries based on evidence that is not acceptable in Canadian courts. Canada has extradition treaties with countries that allow secret intelligence, including intelligence that may have been the product of torture, to be used as evidence at trial. Evidence submitted by the foreign country is presumed reliable. In addition, foreign countries may cherry-pick what evidence to present to Canada, and need not disclose any exculpatory evidence. For example, at the extradition hearing, Hassan was not allowed to introduce evidence showing that his finger and palm prints do not match those of the presumed bomber. Mr. Gary Botting, a leading authority in Canada about the extradition law described the law as the "least fair act on earth". See http://www.justiceforhassandiab.org/wp-content/uploads/2013/10/extrad_botting_

prism_magazine_2011617.

Are you currently being pressured by any side?
No, we are not pressured by any side.

Has the Canadian media been just towards Diab's case?

Initial reaction in the media was predictably negative, given the nature of the allegations. However, as the facts have begun to come out through the legal process in Canada (i.e., the flimsiness and the case, the utterly flawed methodology in the French handwriting analysis, and the heavy reliance on secret intelligence of unknown and untestable reliability), the Canadian media has started to provide a more even-handed portrayal of the case. The Ottawa Citizen, for example, has published some very informative articles about the case. Unfortunately, the French media (and therefore the French public) remain largely unaware of the significant developments in Dr Diab's case, as reflected in the inaccurate and biased reporting that pervades most mainstream French coverage. Every once in a while we see negative articles or op-eds in Canadian and French media that presume guilt and call for rapid extradition France. Articles like these articles contain misinformation and ignore essential facts.

Q: What about the Arabic media in Canada?

To my knowledge, your publication is the first Arabic media that has shown interest in Hassan's case. Unfortunately, so far, we have seen very little coverage of Hassan's case in the Arabic media, either in Canada or abroad, and it has not always been well-informed. We certainly welcome the opportunity to inform the Arabic community about Dr. Diab's case and the serious issues it raises. The issues at stake are not just about Hassan, but about everyone, especially people of Middle-Eastern origin who are often victims of unjust suspicion and discrimination under the so-called "war on terror". There are important similarities between Hassan's case and those of other Arab and Muslim persons falsely accused of terror-

ism-related offences, particularly with regard to the use of secret evidence and profiling of individuals on the bases of their ethnic or religious background. Everyone needs to be reminded of cases like these and the dangers inherent in targeting individuals based on their background.

Do you expect success in your battle for Hassan Diab's innocence?

Even though the extradition law is extremely unfair in that it gives all the advantages to the requesting state (France, in this case) and puts the burden of proof entirely on the person sought (Hassan, in this case), we remain hopeful that Hassan will ultimately be exonerated. People often ask why is Hassan fighting extradition? Why not simply go to France and clear his name? Hassan is simply exercising his legal rights in Canada by fighting extradition. Furthermore, if extradited, Hassan will be torn from his family and community to languish in a French prison for years, while the French continue their 33-year investigation. If a trial were to be held in France, Hassan would be tried on the basis of unsecured and uncircumstant intelligence that can never be challenged in a court of law. Human Rights Watch has documented the use of secret intelligence in terrorism cases in France - including intelligence obtained from countries that routinely use torture. Moreover, Hassan's ability to challenge the handwriting analysis will be severely restricted. In accordance with the rules in an "inquisitorial" legal system, and as confirmed by French legal experts consulted by Hassan's lawyer, the French court will be extremely deferential to the handwriting analysis reports that were commissioned by the French investigative judge and will view defence evidence with suspicion. Finally, we know that Hassan is innocent and the case against him is without foundation. We will not give up, no matter how long it takes. We need the general public, and especially the Arab community in Canada, to speak out against the injustices that Hassan is facing. We all have a stake in this!

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D'autant plus qu'Israël déclare ouvertement qu'il possède des centaines de têtes nucléaires, ainsi qu'un réacteur nucléaire construit depuis des décennies, grâce à une aide française, sans adhérer à aucun traité afin d'assurer et surveiller la nature pacifique de son programme nucléaire, et surtout en interdisant à quiconque d'inspecter celui-ci. Cependant, personne

dans le monde n'ose amener le dossier nucléaire israélien sur la table des discussions de l'AIEA, en vertu toujours de la logique de la force et non celle des principes élémentaires du droit international. Quant à la panique israélienne elle n'est pas due à la possibilité iranienne de fabriquer des armes atomiques, chose que la république islamique ne depuis plusieurs années - car ceci est contradictoire à son engagement religieux-, mais elle est

plutôt due à l'appel international à dépourvoir tout le Moyen-Orient des armes de destruction massive. La Syrie a déjà donné l'exemple en renonçant à ses stocks d'armes chimiques, l'Iran a accepté les normes internationales et le contrôle de l'AIEA, et au paravent, le réacteur nucléaire l'Irak a été détruit et ses scientifiques assassinés. Seul Israël demeure un obstacle de taille devant la paix dans la région et dans le monde! Cette même peur

en fait est ressentie par l'Arabie Saoudite, qui ne connaît qu'une seule logique, celle de couvrir des esprits intégristes versés dans le terrorisme et le rejet de l'autre, sans être au courant que le monde ne tolère plus ces méthodes barbares et cherche réellement un avenir plus stable, en traitant avec l'Iran, qui négocie avec tout le monde avec la plus grande franchise et sans mettre en péril les intérêts de son peuple. C'est une leçon admirable

pour la réflexion, celle que nous offre l'Iran, afin que certains dirigeants arabes puissent apprendre à construire des pays par des générations instruites et nationalistes, et mettre fin ainsi au despotisme aveugle des familles régnautes, basé sur la pauvreté des grandes couches de la population, le chômage des jeunes, la corruption institutionnalisée et l'exploitation des richesses par les familles qui gouvernent et celles plus proches du pouvoir.

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