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## No 'sunny ways' for Canadian extradited to France, so how fair will China be?

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If he weren't languishing in a French prison for a crime he says he didn't commit, Dr. Hassan Diab might've smiled ruefully when China pressed Justin Trudeau for an extradition treaty with Canada the other day. When Mr. Trudeau, who sees sunshine where others see black clouds, boasted of "Canada's extremely high standards on extradition," Dr. Diab might have guffawed out loud. But since it's been two years since he was extradited from Canada to France and imprisoned, he might have lost his sense of humour.

During Chinese Premier Li's visit to Ottawa, where the authoritarian leader was fêted by the PM as his BFF and a trusted ally, most authorities on China mocked the Chinese push for extradition. Since the rule of law in China is a sham, every aspect of extraditing a Chinese person from Canada lends itself to injustice.

First, we'd never be certain that those whom China wanted extradited from Canada were not simply dissidents of some kind; not criminals at all. Second, we could not trust that anyone we did extradite would get anything remotely like a fair trial. Thirdly, we would not necessarily even know the results of those kangaroo courts, including whether the death penalty was carried out.

Liberal apologists pointed out that Canada never extradites a prisoner to a country where capital punishment is legal without a commitment that it would not be used. But a commitment of the same kind from China would hardly be worth a red yuan. Yet our government is giving the Chinese request serious attention. That's what enrages the supporters of Dr. Diab, and should enrage all Canadians interested in justice.

Of course France is not China, and we reasonably judge it (and most Western countries) by a different and higher standard. The experiences of Dr. Diab highlights some of its imperfections, and they are serious. The Diab case therefore raises serious questions about how Canada protects its citizens during dubious extradition proceedings.

Two years ago, Dr. Diab, Lebanese-born with Lebanese and Canadian citizenship, was extradited from Canada to France in a case that has screamed injustice from the get-go. At best the evidence against him was thin.

The essential story is straightforward. Thirty-five years ago there was a terrorist attack outside a synagogue in Paris. Four bystanders were killed, scores injured. Police were stymied for decades. But 30 years after the crime, by which time Dr. Diab was a Canadian citizen and a sociology professor in Ottawa, France accused him of the crime. French officials claimed there were links between the crime and Diab, although all such links appear to be fabrications.

Dr. Diab spent six years in a nasty legal battle to prevent his extradition before he was ultimately shipped off. As we'll see, his tale hardly reflects what the PM calls "Canada's extremely high standards on extradition".

It was Justice Robert Maranger of the Ontario Superior Court who finally ordered Diab's extradition in 2011. But only with great reluctance. Justice Maranger observed that if a fair trial were held in Canada, it was unlikely Diab would be convicted. He described the evidence that was presented in a Canadian court as "very confusing," convoluted," "problematic," and with "suspect" conclusions. He believed that "the prospects of conviction in a fair process seem unlikely."

However, he believed that Canada's flawed extradition law left him no choice. Two years ago, therefore, Diab was finally extradited to France and immediately imprisoned, where he remains.

And yet .... Among many other things, passport evidence suggests that Dr. Diab was not even in France when the terrorists struck. As well, the case against him relied heavily on secret evidence whose sources to this day are not known to anyone, even the investigating French judge. This is the rule of law being practised in a way the Chinese government would readily recognize.

Both French and Canadian authorities compared Diab's fingerprints with those of a suspect. There was no match. Even more embarrassing, the handwriting evidence presented by the French authorities had to be withdrawn after it was revealed that the comparison samples used did not even belong to Diab. Yet this "evidence" remains in his dossier in France and was used against him at a hearing in France that denied him bail.

Even the final handwriting analysis submitted by France was found to be completely defective and unreliable by five internationally-recognized handwriting experts. In the words of one, the analysis report was "demonstrably false." Moreover, the five experts testified that an objective handwriting analysis would actually exclude Diab from being the suspect at all.

In short, while the attack on the synagogue was horrific, there is no known link of any kind between it and Diab. His wife and supporters continue to

demand the federal government press France for his release. But Trudeau's surprising apparent openness to an extradition treaty with China has not given them reason for optimism.

In effect, his government is treating Dr. Diab with the same indifference and implicit presumption of guilt as did the Conservatives for so long. Nor has the government initiated changes in our extradition laws that have been criticized by so many legal authorities. When do Hassan Diab and his family ever get their sunny days back again?

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