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Canada

Trudeau Must Call For The Release Of Hassan Diab

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Hassan Diab attends a rally calling on the Canadian government not to extradite him, in Ottawa Jan. 20, 2012. (Photo: REUTERS/Chris Wattie)

Imagine for a moment that you have been accused by a foreign state of committing a heinous crime that took place over 36 years ago. The foreign state calls on your government to extradite you for questioning on the basis of evidence that is either flawed or secret. Over a period of eight years, you are imprisoned by your government, released by your government on strict bail conditions and then extradited to that foreign state, where you await in prison for over two years while that state continues its investigation.

This is the unjust reality for Canadian citizen Hassan Diab. Diab, a Lebanon-born Canadian who taught sociology in Ottawa, was accused in 2008 by France of murdering four and wounding dozens from a bomb that exploded outside a Parisian synagogue in 1980. Diab has always maintained his innocence, saying that he was not in Paris at the time and that he is the victim of mistaken identity.

The evidence that France presented against Diab in the Canadian extradition proceedings was described by Superior Court Justice Robert Maranger as "very problematic," "suspect," "convoluted" and "very confusing." Maranger added that if Diab was tried in Canada, it would unlikely result in a conviction.

The French case for extradition rested on two main elements: secret intelligence that was eventually withdrawn by the Crown attorneys (on behalf of France) during the Canadian extradition proceedings, due to its unknown origins; and a hotel registration card containing five words in block letters written by the bomber.



Hassan Diab who was arrested in November 2008 for his alleged role in a 1980 Paris synagogue bombing. (Photo: AFP/BERTRAND GUAY)

The five capitalized words written on the hotel registration card were determined to be the same handwriting as Diab's by two French handwriting experts. But it turned out that the French experts relied on several comparison handwriting samples that were not even written by Diab; his ex-wife wrote them. This led the Crown attorneys to withdraw these handwriting analysis reports from the Canadian extradition proceedings.

A third handwriting analysis report was then introduced by the French using Diab's actual handwriting, and it too concluded that there was a match. Diab's legal defence commissioned five independent and internationally recognized handwriting experts to review the reports and its findings. Each expert concluded that the French report is biased, based on faulty methodology and wholly unreliable. A British expert even described the report as "demonstrably false." The defence experts showed that an objective handwriting analysis would actually exclude Diab.

In addition, forensic analyses commissioned by the RCMP show that Diab's fingerprints conclusively do not match those found on the hotel registration card and a police statement signed by the bomber.

Despite this exculpatory evidence, Justice Maranger ordered Diab's extradition almost entirely on the basis of the disputed and discredited French handwriting analysis report.

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The Canadian justice system failed Diab by continuing its long-held practice of rubber stamping extraditions.

Justice Maranger declared that his hands were tied because of the nature of Canada's extradition law -- he felt forced to extradite Diab because of Canada's embarrassingly low standards for extradition. It is important to note, however, that Canadians are supposed to be extradited to stand trial, not to sit in prison indefinitely while an investigation continues.

One of Canada's foremost authorities on extradition, attorney Gary Botting, believes that the Canadian justice system failed Diab by continuing its long-held practice of rubber stamping extraditions, despite a Supreme Court ruling in 2006 that told provincial courts to turn down requests that employ unreliable evidence, and which do not meet Canadian standards.

According to Botting, Canadians "get the short end of the stick every time. Their own government has sold them down the river." Regarding Diab, Botting concluded that Diab "should not be going to a country that automatically regards him as a fugitive and has him pegged as a murderer -- a terrorist. And God knows, in this climate, you don't want that label."

The climate in France is undoubtedly hostile to anyone labeled a terrorist, which Diab is consistently labeled as in France. If Diab's case goes to trial, he will be tried in a special anti-terrorism court, which permits the use of secret intelligence as evidence -- evidence whose origins are unknown, even to the judge.

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It is objectively clear that the evidence presented against him is unreliable and, in fact, proves his innocence.

And in Diab's legal dossier, the French prosecutor has maintained all the withdrawn evidence from the Canadian extradition proceedings, including the handwriting analysis reports that used Diab's ex-wife's writing as the comparison sample. Diab's lawyers have tried to get this discredited evidence removed, but to no avail.

A recent breakthrough has occurred in this case, though, which should give hope for those seeking justice. The investigating judge in France recently traveled to Lebanon and found "consistent evidence" that Diab was indeed in Lebanon at the time of the bombing. The judge immediately ordered that Diab be released on bail. Unfortunately, a panel of three appeal judges turned this ruling down, forcing Diab to remain behind bars.

Despite the hideous nature of the allegations against him, Diab's plight has elicited the support of numerous civil society organizations in Canada, including national labour unions, civil liberties associations and human rights organizations. It is objectively clear that the evidence presented against him is unreliable and, in fact, proves his innocence.

Civil society has spoken, and now it is time for the Liberal government to demand the release of Diab from custody. Diab was extradited under the orders of former Conservative Justice Minister Rob Nicholson. The previous government signed off on this request, so the Liberals are not to blame. But now his fate rests in their hands.

If this government is truly committed to justice, then it must take swift action. At a minimum, the Liberals must demand that Diab be released on bail, particularly given the French judge's finding that Diab was in Lebanon during the bombing.

Much like the French Jewish officer Alfred Dreyfus, who was the victim of a miscarriage of justice based on faulty handwriting analysis and secret evidence, history is repeating itself over a century later in the case of Hassan Diab. As Dreyfus found himself in a climate of anti-Semitism, Diab is forced to defend himself in an anti-Arab and Islamophobic climate, where he is presumed guilty.

The Liberal government cannot simply wash its hands. After all, it's 2016.

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