



## OPINION

# Canada betrays its own citizens. Hassan Diab's case is among its most egregious: Neil Macdonald



The real problem is that Canada's eagerness to please foreign allies supersedes concerns for its own citizens

Neil Macdonald · CBC News · Posted: Sep 15, 2018 4:00 AM ET | Last Updated: September 15



Hassan Diab is a Lebanese-born Canadian academic with no public history of anti-Jewish animus who was abruptly arrested a decade ago by the RCMP on behalf of the French (Lisa Laventure/CBC)

I don't know professor Hassan Diab, the Canadian citizen packed off to a French prison in 2014 by Canadian authorities on what French investigative judges ultimately decided were unfounded terrorism accusations.

But I do know this: I don't trust my government. I don't trust Canadian police, and I don't trust our prosecutors. Sorry. They are quite capable of traducing me, or any other citizen of this country, in order to please a foreign power.

I say this not as a right-wing militia member or conspiracy theorist. I say it as a journalist with 42 years on the job. I have seen what our legal system is capable of doing to an ordinary citizen, and it is frightening. If you don't believe that, well, let's just hope you never have your unshakeable patriotic faith tested.

Diab is a Lebanese-born Canadian academic with no public history of anti-Jewish animus who was abruptly arrested a decade ago by the RCMP on behalf of the French, who accused him of a 1980 synagogue bombing in Paris.

The evidence was lousy. A senior Canadian judge presiding over the extradition hearing rather presciently [described](#) the case as: "weak," "very convoluted," "confusing," with "conclusions that are suspect" and unlikely to lead to a conviction.

## Diab's extradition

Nonetheless, the judge said, the law compelled him to extradite. Higher Canadian courts subsequently agreed. Diab eventually spent 38 precious months of his life locked up alongside France's most violent convicted criminals, as one French judge after another criticized the evidence, before finally dropping the case and freeing the professor, who is now back in Ottawa. (One judge, after a visit to Lebanon, concluded Diab wasn't even in France at the time of the bombing. Diab was in fact never formally charged, but held under something called a *mise en examen*).

Even the prominent Canadian Jewish activists who once hailed his arrest are now ashamed of themselves.

Benjamin Shinerwald, a former Canadian Jewish Congress (CJC) official who rushed to Diab's bail hearing in 2008 and later told reporters the arrest "sends a message to terrorists around the world," [wrote](#) last weekend in the Canadian Jewish News that he began feeling like a dupe after reading the judge's sour appraisal of the French evidence.

"And that was before we discovered that our Department of Justice – think of that name – may have deliberately withheld exculpatory evidence, something shockingly permitted under our extradition process.

"I hereby express my deepest regret to Mr. Diab for my actions." Bernie Farber, a former head of the CJC, [has said](#) more or less the same thing.

I can relate to Shinewald's feelings of feeling duped.



I was expected, when someone was charged with a crime, to respectfully quote authorities, and even describe some of the evidence — never exculpatory, of course — without ever asking the accused person for his or her side of the story. (CBC)

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I've had doubts about journalism's embrace of prosecutors and law enforcement since I was a junior police reporter in the late-'70s. A fair number of the police I dealt with back then were deeply misogynist, thoroughly homophobic, and, in many cases, plain racist. Some were absolutely brutal. The prosecutors with whom they worked weren't always very bright, either.

And yet I was expected, when someone was charged with a crime, to respectfully quote these characters, and even describe some of the evidence — never exculpatory, of course

— without ever asking the accused person for his or her side of the story, which you would think basic journalism demands.

"They'll get their day in court, and we'll cover that," my editors would say.

Of course, we often didn't. We moved on. We – I – helped ruin innocent citizens targeted by incompetent authorities.

I put aside my qualms, though, because, you know, if you've done nothing wrong, you have nothing to fear. That is of course police-state logic, but I was foolish and callow.

Then, in 1984, I learned just how casually the government can betray one of its own citizens.

## Arrest of Leslie Klein

I met a fellow named Leslie Klein, an Ottawa businessman who owned a small business assembling personal computer clones and selling them abroad. He'd been arrested while on vacation in the United States.

It turned out the RCMP had quietly investigated him on behalf of the U.S. government, which used Canadian-supplied evidence to charge him in a sealed indictment with violating America's Cold-War rules prohibiting sales of such equipment to East Bloc countries.

As it [turned out](#), Klein had express permission, in the form of export licenses, from Canada's foreign affairs ministry for his shipments. He'd made the necessary declarations to his own government.

So Canada on the one hand approved and issued permits for the sales, while its national police force secretly targeted Klein? Yes, federal officials in Ottawa told me. Perfectly normal. Canada, working from the so-called "CoCom list" that specified what equipment could be shipped to East Bloc satellites, considered the sales legal. But the Americans used a much more extensive list, and regarded the sale as illegal, and furthermore,



applied their law extraterritorially. U.S. authorities requested Canadian help in investigating Klein, and the RCMP obliged.

That's just the system, they said. Nothing can be done.

A judge in Boston eventually acquitted Klein, ruling he had acted in good faith. The whole ordeal cost him a fortune, and wrecked his business.

Eighteen years later, terrorism had replaced communism as America's great preoccupation, but Canada's servility remained unchanged.



It turned out Arar was innocent. He was definitively cleared by an inquiry led by a senior Canadian judge, and paid \$10.5 million for his suffering. (Tom Hanson/Canadian Press)

Maher Arar, a Canadian citizen, was grabbed at JFK airport in New York and eventually sent off to be tortured in Syria, based, it turned out, on bogus information about a connection to al-Qaeda, secretly supplied to the Americans by Canadian intelligence agents, who also whispered dirt to reporters, who in turn dutifully reported it.

It turned out Arar was innocent. He was definitively cleared by an inquiry led by a senior Canadian judge, and paid \$10.5 million for his suffering.

The Americans, of course, ignored the findings of the inquiry, and kept Arar on their watch list. Former Secretary of State Condoleezza Rice and former Attorney General Alberto Gonzales refused to say why. Meanwhile, God only knows what sorts of things our intelligence agencies are secretly telling them about other Canadian citizens.

Then there was Omar Khadr, a Canadian-born citizen captured at age 15, and eventually sent to Guantanamo. Khadr was accused of throwing a grenade and killing an invading U.S. soldier in Afghanistan.

Not only did the Canadian government fail to advocate for him, it sent interrogators to Gitmo to help the Americans grill the boy, then refused to bring him to Canada. Canadian authorities eventually relented, but not without a news release from then-Public Safety Minister Vic Toews [denouncing](#) Khadr repeatedly as a "convicted terrorist" (a reference to a guilty plea submitted under extreme duress to avoid indefinite imprisonment in a place that employed torture).



Not only did the Canadian government fail to advocate for Khadr, it sent interrogators to Gitmo to help the Americans grill the boy (Colin Perkel/Canadian Press)

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The Supreme Court of Canada eventually ruled the Canadian government had violated his rights, and that the interrogation was illegal. Khadr, too, was given a \$10.5-million settlement that Conservatives still publicly seethe about.

And now, Hassan Diab. Apologists for the government say it had no choice, because of our extradition law, and neither did the judge who ordered him extradited to France. Sorry, it's just the system.

Sorry, not good enough. The real problem is that Canada's eagerness to please foreign allies supersedes concerns for its own citizens.

Consider this: France would not have extradited one of its citizens to Canada. Its position is that if foreign authorities have a case against a French citizen, they should supply the evidence to France, and France will put the person on trial.

"We'd have been happy to have the trial here in Canada," says Don Bayne, Diab's lawyer. "We knew how long it would last."

Instead, Diab lost years of his life, and the Canadian government, rather than profusely apologizing, has now arrogantly appointed a retired prosecutor and former senior Ontario justice official — yes, a lifelong prosecutor — to "review" the case.

Diab, meanwhile, remains on the American no-fly list. And French prosecutors are appealing his release. They may yet demand he be turned over again, and that law that gave the judge and the government no choice remains unchanged. You know, the system.

Terrifying.

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