



The Honourable Jody Wilson-Raybould
Minister of Justice and Attorney General
284 Wellington Street
Ottawa, Ontario
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The Honourable Chrystia Freeland
Minister of Foreign Affairs
125 Sussex Drive
Ottawa, Ontario
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May 2, 2018

Dear Ministers,

We are writing this Open Letter to share Amnesty International and the British Columbia Civil Liberties Association's serious concerns with respect to recent revelations regarding the role played by Canadian officials in the extradition of Canadian citizen Hassan Diab to France in 2014, where he was held without charge or trial for more than three years before being cleared of any possible charges and allowed to return to his wife and two young children in Ottawa in January of this year.

These most recent revelations add to previously existing serious concerns about the history of this case, including how easy it was for Dr. Diab to be extradited on weak and unreliable evidence and the extent to which evidence in the case included secretive and unsourced intelligence, which there were reasonable grounds to suspect may have been obtained through torture in third countries. This combination of a clear failure of Canada's extradition process to have protected a Canadian citizen from grave injustice, and indications that Canadian government lawyers appear to have played a key role in facilitating the extradition despite these fundamental concerns, lead us to endorse the call made by Dr. Diab and his family that there be a full and independent inquiry into what has transpired in his case.

As you will be aware, CBC News has reported that Canadian officials played an active role in assisting the French government, even as the evidence in the case had been discredited and the basis for extradition shown to be unsubstantiated. This reporting is based on a previously undisclosed Department of Justice memo prepared by a senior government lawyer who was involved in the extradition request and hearings between 2008 and 2014. The reports also indicate that Canadian government lawyers may have misled the court as to the government's understanding of why French officials had sought a lengthy adjournment in the extradition hearing, and failed to disclose to Dr. Diab's legal team the exculpatory French fingerprint analysis.

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Amnesty International has been concerned about a range of human rights issues in Dr. Diab's case throughout both his extradition and his detention in France. We intervened before the Ontario Court of Appeal in 2013, where we proposed a legal test that should be applied in extradition matters to guard against the possibility of torture-tainted evidence being relied upon to support extradition requests. Deeply concerned about his continuing detention without charge or trial in France despite numerous provisional release orders by investigating judges, we wrote to each of you, alongside Minister Freeland's Parliamentary Secretary Omar Alghabra, in June, 2017 urging the Canadian government to call on French authorities to, at a minimum, release Dr. Diab conditionally on bail while his case proceeded.

Our organizations have welcomed recent expressions of concern from both of you about what has transpired in Dr. Diab's case. We are also aware that Minister Wilson-Raybould's department is undertaking a "lessons-learned" exercise to determine the "effectiveness and efficiency" of the extradition proceedings he faced, "in light of media attention suggesting that the extradition process concerning Mr. Diab was unsatisfactory."

To date Canadian legal officials, judges and politicians have largely sought to explain Dr. Diab's experience as an unfortunate but inevitable result of low evidentiary thresholds and minimal procedural safeguards in the country's Extradition Act. That is almost certainly the case, and is a concern that absolutely does need review leading to reform. However, given the revelations that Canadian government lawyers may be directly implicated in the shortcomings, failures and possible wrongdoing that led to his extradition, it is clearly not appropriate for this to go forward as a largely internal review carried out by the very Department that may be responsible for transgressions which need to be objectively and independently examined and for which there may need to be eventual accountability.

We urge you to move quickly to appoint an independent commissioner to conduct a thorough and public inquiry into Dr. Diab's case, ensuring that the person appointed has full access to and powers to compel disclosure of any and all relevant information. This independent inquiry should consider, *inter alia*:

- The actions of Canadian government lawyers throughout the extradition process, including the appropriateness of the assistance provided to the French government, the truthfulness of statements about the progress of the case that were made in Court and the reasons for decisions not to share exculpatory evidence with Dr. Diab's legal team.
- Possible reforms to the Extradition Act to address any statutory limitations or weaknesses that allowed this extradition to go ahead on an evidentiary basis that the presiding judge himself described as highly problematic.
- Whether Canadian officials acted quickly enough and with sufficient diligence as concerns emerged about Dr. Diab's lengthy period of detention without charge in France.
- Appropriate redress to Dr. Diab and his family, including an official apology and appropriate compensation, for actions or inaction of Canadian officials that may have contributed to the human rights violations and miscarriage of justice he experienced.

Sincerely,



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Josh Paterson
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