



Justin Trudeau
Leader
Liberal Party of Canada

Yves-François Blanchet
Leader
Bloc Québécois

Andrew Scheer
Leader
Conservative Party of Canada

Elizabeth May
Leader
Green Party of Canada

Jagmeet Singh
Leader
New Democratic Party

Maxime Bernier
Leader
People's Party of Canada

September 30, 2019

Dear Mr. Trudeau, Mr. Scheer, Mr. Singh, M. Blanchet, Ms. May and Mr. Bernier,

RE: Seeking commitment to establish public inquiry into case of Hassan Diab

We are writing to seek your party's public commitment to support the establishment of a public inquiry into the case of Dr. Hassan Diab.

Amnesty International and the BC Civil Liberties Association ("BCCLA") consider the outcome of Murray Segal's external review of the Government of Canada's handling of Dr. Diab's case ("Segal Review") to be deeply unsatisfactory. Unfortunately, due to the inadequate mechanism chosen and the limited terms of reference set, this was the anticipated result. At the time the Minister of Justice announced their decision to establish a review, we voiced our concerns that this would be insufficient to adequately examine how the extradition scheme contributed to the unjust treatment of Dr. Diab; we strongly advocated for the establishment of a public inquiry.

Consequently, Amnesty International and the BCCLA reiterate their support for the call made by Dr. Diab himself for a full and public inquiry into all events leading up to his extradition from Canada, his detention without charge in France for over three years, and related matters since his return to Canada. At this time we seek your commitment to support the establishment of a public inquiry that *inter alia* would be empowered to:

- determine the extent and nature of the human rights violations Dr. Diab experienced;
- explore fully how the application of existing extraditions laws, policies and guidelines facilitated an extradition that resulted in those serious human rights violations;
- examine the failure of Department of Justice officials to ensure that key exculpatory evidence was disclosed to the court, to Dr. Diab and his counsel;

- assess the action taken by Canadian politicians, consular personnel and other government officials to intervene with French officials as it became clear his treatment in France was in contravention of international human rights norms;
- consider appropriate redress, including compensation and an official apology, for Dr. Diab and his family; and
- make recommendations as to consequential reforms needed to Canada's *Extradition Act*, consular guidelines and any other relevant laws or policies.

As mandated, Mr. Segal's report focuses on respect for and compliance with existing laws, policies and guidelines. It does not probe the fundamental injustice and human rights violations suffered by Dr. Diab. Prime Minister Justin Trudeau had stated that "what happened to [Dr. Diab] never should have happened," and that we must "make sure this never happens again."¹ Yet the outcome of the review takes us no closer to ensuring that the Prime Minister's call to action is fulfilled. Mr. Segal stresses that he was not tasked with "evaluat[ing] or mak[ing] recommendations about the careful balancing of the broader purposes of extradition with individual rights and interests,"² but simply with evaluating whether the current law was followed in Dr. Diab's case. Clearly, such a limited mandate was insufficient in addressing what needs to change in our extradition system to avoid repetition of this miscarriage of justice.

We would expect that you are not reassured by or content with a review which concludes that the "law was applied faithfully and nevertheless produced a troubling result."³ . The Segal Review simply cannot be taken to be the end of the story for Dr. Diab, nor can it be the end of the road for a meaningful review of Canada's extradition framework.

Amnesty International and the BCCLA are of the view that the disappointing and incomplete outcome of the external review compels our next government to take steps to ensure that the *Extradition Act*, as well as related policies and guidelines, are thoroughly reassessed. Evidently, it was the faithful application of this legal framework that led to the serious human rights violations suffered by Dr. Diab, including more than three years of detention without charge or trial and lengthy periods of solitary confinement.

While the Segal Review makes some recommendations for the government to consider, they fall far short of any concrete changes which would meaningfully safeguard against repetition of the human rights violations faced by Dr. Diab. Moreover, the government has not yet released its response to the report nor specified its intention to implement these recommendations.

¹David Cochrane & Lisa Laventure, "Murray Segal to lead review of Hassan Diab extradition", *CBC News* (5 July 2018), online: <https://www.cbc.ca/news/politics/hassan-diab-extradition-france-external-review-1.4736033>.

² Government Canada, Department of Justice, *Independent Review of the Extradition of Dr. Hassan Diab*, prepared by Murray D. Segal, May 2019, at p. 7, 78.

³ *Ibid* at p. 77.

Moving forward, the next federal government has a duty to revisit the questions and serious issues that were raised from this case, by Dr. Diab, his counsel, concerned individuals, and civil society organizations. There are many crucial preoccupations that remain unexamined and unresolved, including:

- The nature and toll of the human rights violations Dr. Diab and his family endured bear much closer attention. Dr. Diab endured over five years of severe bail conditions in Canada, more than three years of imprisonment in a foreign country away from his family, lengthy solitary confinement (far in excess of the maximum length recognized by UN experts to constitute torture or ill-treatment), a tarnished reputation, serious financial hardship, deterioration in both his physical and mental health, and he missed more than three years of his children's lives, including the birth of his son. There must be full consideration of appropriate redress to which Dr. Diab and his family are entitled.
- Mr. Segal's terms of reference did not include the fundamental task of evaluating how and why Dr. Diab's human rights were violated in this shocking manner throughout the extradition process. Not only was Dr. Diab's liberty unduly restrained while he was subjected to onerous bail conditions in Canada, his treatment in France, including his more than 3-year detention without facing charges or being brought to trial, was in contravention of international human rights standards.
- Further attention must be given to the deficiencies in the consular and diplomatic action that was taken, including the reluctance to monitor the trial process in France to ensure its fairness and transparency, and the lack of follow-up or due diligence from Canadian officials with regards to Dr. Diab's prolonged detention in solitary confinement.
- Canada must ensure that, in keeping with the aims of its extradition laws, it does not extradite a Canadian citizen for purely investigative purposes, or to a jurisdiction which is manifestly unready to proceed to trial.
- The Canadian extradition system must be reformed in order to guard against reliance on evidence that is unsound and discredited, and to avoid proceeding on cases which are wholly unsubstantiated or built on intelligence information possibly derived from torture.
- Potentially exculpatory evidence should never be withheld from the individual facing committal to extradition.

Canada is a nation that prides itself on a tradition of deep respect for the rule of law and fundamental human rights. When the liberty interests of our citizens, and others present on our territory, risk being compromised by an extradition process that can so easily be stripped of minimal guarantors of justice or fairness, this should be a clarion call for government action.

Ultimately, we look to your party to commit to establishing a full and independent, judge-led public inquiry that addresses the injustices that occurred in this case and the flaws in our extradition system. This public enquiry would ensure full transparency and accountability and bring about concrete recommendations for legal and policy reform. Such an inquiry must ensure Dr. Diab's full involvement and allow for relevant stakeholders to provide their input on Canada's extradition system. Crucially, justice dictates that the inquiry be specifically tasked with determining appropriate redress for Dr. Diab and his family, including an official apology and fair compensation for Canada's part in the human rights violations he suffered.

We look forward to hearing from you on this important human rights matter.

Sincerely,



Alex Neve
Secretary General
Amnesty International Canada



Maggie Knight
Acting Executive Director
British Columbia Civil Liberties Association