

Criminal

Dr. Hassan Diab: When will 15 years of injustice end? | Alex Neve and Robert Currie

Thursday, March 30, 2023 @ 12:43 PM | By Alex Neve and Robert Currie

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Alex Neve

The term Kafkaesque, connoting an unfathomable maze of surreal injustice, is often overused. But if there is a case in which it aptly applies, it is that of Dr. Hassan Diab.

Dr. Diab's case has become emblematic of being trapped in a nightmarish labyrinth of injustice which seems to have no end. Two governments have the ability — and responsibility — to do something about that: France, most directly, but also Canada. It is unconscionable that they have yet to do so.



Robert Currie

It begins with a brazen terrorist bombing outside a synagogue in Paris in 1980. Four people were killed and 46 wounded. The city's Jewish community was devastated and traumatized. More than 42 years later there absolutely should have been justice. Justice is not served, however, on the back of an innocent man.

In 2008, 28 years after the bombing, Dr. Diab, a Canadian citizen and sociology professor living in Ottawa, was arrested on a French extradition warrant, accused of carrying out the horrific attack. Thus began six years of protracted legal proceedings, which showcased the glaring deficiencies of Canada's extradition laws — laws that are massively weighted in favour of states seeking extradition and offer few safeguards for the rights of those facing extradition.

Central to the case against him are five words in block letters on a hotel registration card for a guest using the alias Alexander Panadriyu, who French authorities have concluded was the bomber. At every turn, during extradition proceedings in Canada and continuing in France, the reliability of the French government's expert reports, asserting that the handwriting is Dr. Diab's, has not only been put into

question but, in fact, has been decimated.

Ontario Superior Court Justice Robert Maranger could not have been more reluctant when he ruled in 2011 that the extradition was lawful (*France v. Diab* [2011] O.J. No. 2551). He noted that the evidence was “convoluted, very confusing, with conclusions that are suspect,” the handwriting analysis “highly susceptible to criticism and impeachment” and “the case presented by the Republic of France against Mr. Diab is a weak case; the prospects of conviction in the context of a fair trial, seem unlikely.” Nonetheless, he concluded that the bar is set so low in Canadian law that he had no other choice but to let the extradition proceed.

After an unsuccessful appeal to the Ontario Court of Appeal and denial of leave to appeal to the Supreme Court of Canada, Dr. Diab was extradited in November 2014. It then became clear that French authorities were not ready to go to trial, which is the express purpose of extradition. Instead, he was held in a maximum-security prison for more than three years, most of that time in solitary confinement, while the case was investigated.

The one bright spot in this dystopian affair was the two tenacious investigatory judges assigned to the case. The handwriting evidence continued to collapse, and the judges corroborated Dr. Diab’s claim that he had been in Beirut writing his university exams at the time of the bombing. In January 2018, they ruled that there was insufficient evidence to proceed and ordered Dr. Diab’s release. He returned to Canada and reunited with his wife and two young children.

It should have ended there. It did not.

French prosecutors appealed. In 2021, the Court of Appeal and the *Cour de Cassation* sided, unbelievably, with the prosecution and ordered that a trial go ahead. This despite the fact that two handwriting experts who provided a new report ordered by the Court of Appeal, agreed with the defence, and the *Cour de Cassation*’s independent *Advocat General* took the exceptional step of urging that the appeal be rejected.

On April 3, the trial will open. France has not sought Dr. Diab’s extradition and he has chosen not to travel to France. That means the trial is going ahead on an *in absentia* basis, one more layer of injustice.

It defies belief that this is going ahead, in a country that most Canadians would rightly assume has an effective justice system. That, sadly, is where politics enters the equation. After decades of utter failure to deliver justice to the survivors and families whose lives were torn apart by this bombing, the pressure to do so is immense. Seemingly that means a willingness to offer up a scapegoat and sacrifice human rights standards in the process. That, of course, does nothing to provide justice. It only compounds injustice.

Amnesty International has taken the extraordinary step of [calling](#) on French authorities to drop the case. The Canadian government, sadly, has remained silent. When Hassan Diab returned to Canada in 2018 Prime Minister Trudeau stated that what had happened to him should never happen again. But neither he nor other members of his government have backed that up with a forceful intervention with French counterparts, insisting that this end.

Meanwhile, Hassan Diab’s case has spotlighted many problems with Canada’s extradition laws. We both appeared recently before the House of Commons Standing Committee on Justice and Human Rights, which is looking into [extradition reform](#). We recommended that reforms outlined in the [Halifax Proposals](#), the outcome of expert roundtables at Dalhousie University and the University of Ottawa, provide the blueprint that is needed.

Most immediately though we will watch with trepidation as yet another Kafkaesque chapter unfolds. French authorities have not been prepared to stand for justice in the Diab case. Canadian authorities have

not been prepared to stand for justice in the Diab case. It is not too late to turn that around.

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