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Rush to wrongful judgement: The case of Hassan Diab

by Judy Haiven May 9, 2023

Do heinous crimes justify a wrongful conviction? Let's not extradite an innocent man who is but a scapegoat for a 43-year-old unsolved crime.



Dr, Hassan Diab is seen in this undated photo. Credit: Don Pratt

In a recent opinion piece in [***The Globe and Mail***](#), Yonathan Arif and Richard Marceau tried to convince readers that Dr. Hassan Diab must be [**extradited to France**](#).

Arif and Marceau want Diab thrown in jail for life for a crime he did not commit, a crime for which he was exonerated five years ago by the same French courts and sent back to Canada. Arif and Marceau's reasoning? The crime was horrific — the bombing near a Paris synagogue which killed four and injured 46.

So let's look at two other horrific crimes here at home, crimes in which the accused were wrongfully charged and wrongfully convicted.

Steven Truscott: sentenced to hang, commuted to life in prison

In June 1959, 14-year-old Steven Truscott was charged with the rape and murder of 12-year-old Lynne Harper, which he denied.

Truscott was tried as an adult, and sentenced to hang. The federal cabinet commuted the sentence to prison.

After 10 years in prison for a crime he did not commit, Truscott was paroled.

Still, Harper's relatives insisted Truscott was guilty. The victim's family and community, including the police, were satisfied he had raped and murdered Lynne. Family and police were desperate for someone to stand trial and be convicted. But the someone in question, Truscott, was innocent.

Truscott did not kill Lynne. In 2007, he was acquitted of her murder, and awarded \$6.5 million because he was wrongfully convicted. The judge apologized for the immense "miscarriage of justice" that saw Truscott live for 48 years with the stigma of being a rapist and a murderer.

That same year, Barry Harper, Lynne's brother, called his acquittal "**a real travesty.**" He refused to tell his 90-year-old father about it, insisting the family continued to believe Truscott was guilty. Barry Harper tried, without success, to get Truscott's compensation blocked.

The case of David Milgaard

Now, let's look back 53 years. In 1970, 17-year-old David Milgaard was convicted of raping and killing 22-year-old nursing student Gail Miller. Her body was found in a snowdrift in a Saskatoon alley on a frigid winter morning.

Milgaard denied knowing or killing Miller. He served **23 years in prison** for a crime that he did not commit.

Milgaard's mother Joyce conducted a **tireless campaign** with supporters to exonerate her son.

In 1992, the federal minister of justice ordered a new trial, but the Saskatchewan government refused to retry him. Instead, Milgaard's conviction was stayed and he was released.

Miller's family and the police were infuriated because they believed the right man had been jailed, then wrongly freed.

In 1997, a DNA laboratory in the U.K. established that the semen found on Miller's clothing did not come from Milgaard.

He was exonerated in 1999 and won \$10 million in compensation for being wrongly convicted, incarcerated for decades, being raped and attacked in jail and his health breaking down.

Diab: Wrongly accused, wrongly convicted

Now, let's return to Arfi and Marceau's op-ed. They expressed no doubt about the absolute guilt of Diab, a Canadian professor.

Diab, 69, was recently convicted by a French court for a second time in relation to the 1980 Paris synagogue bombing. of the murder of four people, and injuries to 46 others in a bombing outside a Paris synagogue in 1980.

Both Arfi and Marceau contend the "respected" court made no mistakes and all that remains to be done is to extradite Diab to France to serve a life sentence in jail. But not so quickly.

Do heinous crimes justify a wrongful conviction?

The first thing to know about wrongful convictions is that they often take years to substantiate and to make right.

In this case, Diab was accused of these heinous crimes 15 years ago — 28 years after the bombing itself.

In 2014, he was extradited to France and served 38 months, mainly in solitary confinement, in a Paris prison. He had been extradited on dubious evidence that the scrawl on a hotel registry card was Diab's.

Ontario Superior Court Justice Robert Maranger ordered Diab extradited on one handwriting expert's evidence that was "convoluted, very confusing, with conclusions that are suspect."

During Diab's more than three years in prison, two French investigative judges could find no credible evidence to charge him with the bombing, let alone try him. Diab was freed.

The handwriting evidence had been discredited by two other experts. Witnesses swore that Diab was in Beirut, Lebanon, writing university examinations at the time of the bombing.

And, though Arif and Marceau contend there was evidence of a passport which tied Diab to a location in Spain around the time of the bombing, there was no clear evidence that it was indeed Diab.

Diab returned to Canada in 2018, his life all but shattered.

His wife and young children were punished by his absence and incarceration. He lost his university teaching career. His health had deteriorated and he was still at the mercy of the French justice system.

The French courts and the police decided to find a way to charge and convict him.

In any and every heinous crime, victims or their survivors call for justice. It does no good to show that the bombing was heinous — it clearly was. Arif and Marceau go to great lengths to show the human suffering as a result of the bombing.

The duo tells us the bomber was part of a terror cell and the conviction of Diab means one more terrorist is captured and the key thrown away.

Arif and Marceau want to see someone “pay” for the crime. But it is not Diab who should pay – he is the scapegoat.

Diab was not, as Arif and Marceau maintain, in and out of Spain. The thumbprint on the hotel registry card is not Diab’s. No fingerprints from the scene match his. A sketch made 43 years ago is not evidence. And there are no eye-witnesses who testified.

As we Canadians saw in the Truscott and the Milgaard cases, there was no shortage of families and police who insisted justice had been done when each man was incarcerated for years.

When the police zero in on one suspect — and no others — it’s called **tunnel vision**. In the case of Diab, the two writers also contend that because he is the only suspect – he had to be the culprit.

We know that just because someone is convicted, it does not necessarily mean he is guilty.

If Diab had come to trial in Canada, many contend that, due to the lack of evidence and identification, he would never have been convicted.

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HASSAN DIAB



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